
From: Robin Kaler [REDACTED]
Sent: Thursday, July 24, 2014 7:28 AM
To: Phyllis Wise
Cc: Ilesanmi Adesida
Subject: Re: Deb Stone says...

We will have something to you this morning, so you can use it or not, as you see fit.

Good luck today.

Sent from my iPhone

On Jul 24, 2014, at 7:25 AM, Phyllis Wise [REDACTED] wrote:

Robin,

I don't think it would hurt to draft something. I need to find out what goes on in the executive session today. We can continue planning.

Phyllis

On Thursday, July 24, 2014 6:49 AM, Robin Kaler <[REDACTED]> wrote:

I was thinking about a joint statement too. I think it's worth pursuing. Shall Chris and I draft something for your consideration? That could be an additional point to share with the Board this morning. And it would give us something to post on social media. It's important to make clear publicly that this behavior isn't acceptable.

Sent from my iPhone

On Jul 24, 2014, at 5:51 AM, Phyllis Wise <[REDACTED]> wrote:

Ade,

I agree with everything you have said and I will make these points at the executive session. I think we need to have this discussion with the deans and with the academic senate.

See you soon.

Phyllis

On Thursday, July 24, 2014 5:44 AM, Ilesanmi Adesida <[REDACTED]> wrote:

Phyllis,

Should we put out a joint statement about values to the campus?

Ade

On Thu, Jul 24, 2014 at 5:44 AM, Ilesanmi Adesida

<[REDACTED]> wrote:

Phyllis,

Thanks. You can also mention that we are trying to put in place a process of checking backgrounds. Discussion with the Deans is ongoing since the hiring of faculty is a process that starts from the Departments and rejecting them when it gets to the campus level is very difficult since the Senate might get involved. In this particular case from what we have learned, the recruitment of this guy was ongoing for over two years and was offered the job last year and he was supposed to have come in January this year but postponed it. So his package did not make it to the BoT approval stage until now.

I really have to investigate why his package got delayed to this extent. I understand that his tweets and crazy awful messages became intense this June/July and it escaped the notice at the campus level.

We are going to be engaging the Deans vigorously to make sure that we don't have this sort of event again. Decency, collegiality and mutual respect are at the core of our institution. We have to continue to appeal to these values and make sure that our University maintains its integrity and societal impact over the long term.

We cannot afford this sort of craziness any more. We will need to engage some of our Senate leaders in coming up with acceptable processes so that we are perceived as been thought police!

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<[REDACTED]> wrote:

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<[REDACTED]> wrote:

...she worries that the BoT will want to swing the pendulum and say from now on they must approve every hire in advance. To discourage that, she and I recommend you make the following points with the BoT

1. You are appalled by Mr. Salaita's behavior (unprofessional, uncivil).
2. You have instructed Robert to contact him now and communicate your dissatisfaction.

3. You have instructed Robert that Mr. Salaita is to meet with you when he arrives, so you can tell him personally of your dissatisfaction with his behavior and your expectations for him as a member of our faculty.
4. You are instructing Robert to send Mr. Salaita a link to our code of conduct and the Ethics Act.

http://www.ethics.uillinois.edu/policies_and_legislation/code_of_conduct/

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5. Finally, you are calling together a group to review the vetting process for prospective employees, and that review will result in very clear instructions on additional checks that should be made before recommending someone for hire.

Hope that helps.

r

From: Joyce Tolliver [REDACTED] >
Sent: Thursday, July 24, 2014 8:33 AM
To: I Adesida; Phyllis Wise
Cc: Nick Burbules
Subject: a relevant document
Attachments: ST-72lang.fin.doc; ST-72USCapproved0318.14.doc

Dear Ade and Phyllis,

One piece of our consideration of how to respond to the case we've been thinking about lately is that the Senates will soon be considering a proposed revision to the section of the Statutes that deals with academic freedom. I think our campus Statutes Committee will be discussing this in the next few weeks.

I'm attaching the documents that were sent to the senates late in the spring semester.

best
Joyce

--
Joyce Tolliver

From: Phyllis Wise [mailto:phyllis.wise@unh.edu]
Sent: Thursday, July 24, 2014 8:40 AM
To: Joyce Tolliver
Cc: I Adesida; Nick Burbules
Subject: Re: a relevant document

Thanks, Joyce, for sending these. The real question for me is when does freedom of speech cross the line into hateful, harassing, unprofessional speech and action. You and we want to guard the appropriate discourse, particularly when we disagree. It is when this is inappropriate within or outside of the academy that troubles me about this case.

Phyllis

Sent from my iPad

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To: Phyllis Wise
From: Nick Burbules
Subject: Re: Steven Salaita
Sent: Thu Jul 24 09:02:00 2014
Importance: Normal

Thanks Phyllis,

I am going to try to watch parts of the public portion via live streaming.

Happy to talk afterwards. Hope it goes . . . okay,

Nick

On Thu, Jul 24, 2014 at 8:42 AM, Phyllis Wise <[REDACTED]> wrote:

Nick,

There is such confusion about what the goals of this retreat are. You know that it is no longer being called a retreat, but a meeting. I suspect that it will turn out that you are fortunate you are not here. I'll let you know what transpires.

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Duh, how could I forget the retreat?!!

Maybe a conference call would be best. I could make myself available next week.

On Thu, Jul 24, 2014 at 8:36 AM, Phyllis Wise <[REDACTED]> wrote:

I am in Chicago today and tomorrow and back on Friday evening. I think traffic out of Chicago could be a problem. But I can be pretty sure I could be back by 8pm. I believe Ade leaves for a break on

Saturday. I'd be happy to meet in person or by phone.

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On Jul 24, 2014, at 8:26 AM, Joyce Tolliver <mailto:[REDACTED]> wrote:

Dear Ade and Phyllis,

I appreciate your reaching out to us. I think Nick is right that it would be good to have a conversation about this. Just let me know when would work for you. Of course you are always welcome to give me a call directly <tel:[REDACTED]>).

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On Thu, Jul 24, 2014 at 8:10 AM, Nick Burbules <mailto:[REDACTED]> wrote:

Thanks Ade, Phyllis,

I share your concerns. I would be happy to meet to discuss this, which would be better than doing it through email. I am available all day today and tomorrow, then leave for a week with the family.

Nick

On Thu, Jul 24, 2014 at 7:13 AM, Phyllis Wise <mailto:[REDACTED]> wrote:

Joyce, Nick and Ade,

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Nick, Joyce,

We have run into a buzz saw again! This is with respect with the case of one Steven Salaita who is coming this Fall to the Department of American Indian Studies. His case made the NG a few days ago and that essentially was when we became aware of his intense tweets and messages on Israel, Jews, and the Middle East! Over the last two days, the Chancellor has been deluged with protest messages from outraged alumni and the public! I did not know about him and the Chancellor did not know about him at all. We can discuss the intricacies of his case and the fact that his case has not made it to the BoT yet; that is coming up in September. He is coming to campus in August to take up his position on campus.

One thing that we would like to do is to figure out how we prevent this sort of highly charged and negative blow back like we have had on Kilgore and now Salaita in the future. Salaita was recruited over two years ago and his offer letter was signed in September last year. I know that we are trying to develop something for background check for criminal issues but this now borders of free speech/hateful speech domain. What is acceptable and what are not acceptable, that is the question. We have to engage carefully with the Deans but I want to begin to seek your wise counsel in this domain even before that. This is potentially a slippery territory!

Ade

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Joyce Tolliver

To: Phyllis Wise
From: Nick Burbules
Cc: Joyce Tolliver; Ilesanmi Adesida
Subject: Re: Steven Salaita
Sent: Thu Jul 24 09:48:48 2014
Importance: Normal

Friday evening, after 8, I can be available.

We're driving to the airport hotel tomorrow night, then getting on a plane early Saturday morning.

BOT still in Exec Session?

On Thu, Jul 24, 2014 at 9:40 AM, Phyllis Wise <mailto:[REDACTED]> wrote:

Are you talking about Friday evening or Saturday morning?

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Joyce Tolliver

From: Robin Kaler [REDACTED] >
Sent: Thursday, July 24, 2014 1:58 PM
To: Phyllis Wise
Cc: Ilesanmi Adesida
Subject: Re: Deb Stone says...

Wow.

Sent from my iPhone

> On Jul 24, 2014, at 1:55 PM, Phyllis Wise [REDACTED] > wrote:

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> Too complicated to do in email. But they will be considering carefully whether to approve in September. Definitely not a given.

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> Sent from my iPad

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>> On Jul 24, 2014, at 12:32 PM, [REDACTED] wrote:

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>> Any news you can share?

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>> ----- Original Message -----

>> From: "Phyllis Wise" [REDACTED] >

>> To: "Robin Kaler" [REDACTED] >

>> Cc: "Ilesanmi Adesida" [REDACTED]

>> Sent: Thursday, July 24, 2014 7:25:59 AM GMT -06:00 US/Canada Central

>> Subject: Re: Deb Stone says...

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>> Hope that helps.

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To: Phyllis Wise
From: Nick Burbules
Subject: Re: Steven Salaita
Sent: Thu Jul 24 16:00:33 2014
Importance: Normal

Thanks Phyllis, I watched the whole afternoon session online. It was less painful than I feared, and mostly good comments.

I note the diverse uses of the term "flagship." Urbana is the flagship. U of I in toto is the flagship. UIC should be the second flagship (which I think [REDACTED])

I was reassured by Pam's comments that the point is to keep the special status of Urbana (THE flagship), while raising the other campuses up.

I wish there was an 800 number to call in. Joyce and I were emailing back and forth in real time.

I think [REDACTED] The U of I can't do everything, and there are some things that are not as much part of its mission as say, the mission of K-12, or the mission of community colleges, or of other universities in the state. But what U of I can do is lead, to set a standard, to help create an overall vision or model of higher education (or of economic development, or of innovation, etc). We can't and shouldn't try to do it all, but the leadership should come from us.

That's the kind of broad institutional goal that is good for the U of I . . . AND for our campus.

What I was toying with was if each of the five (say) overall institutional imperatives could be framed around leadership and innovation.

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Nick,

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Joyce Tolliver

From: Ilesanmi Adesida [REDACTED] >
Sent: Friday, July 25, 2014 12:33 AM
To: Joyce Tolliver
Cc: Phyllis Wise; Nick Burbules
Subject: Re: Steven Salaita

Nick, Joyce,

Sorry, I was behind on my emailing all day today! Thank you for your willingness to engage with us on this matter. I will be available for the phone conference at 8 PM.

Ade

On Thu, Jul 24, 2014 at 11:09 AM, Joyce Tolliver [REDACTED] > wrote:
Phone conference at 8pm tomorrow works fine for me.

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Cc: Phyllis Wise; Nick Burbules
Subject: Re: a relevant document

Nick, Joyce,

About the "retreat", it went well. It was not really a retreat in terms of doing strategic planning. It was more of discussing themes that could be in a "system-wide" strategic plan that the new President will have to lead.

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My overall concern as always is that the critical issue of what the University of Illinois is for the 21st century continues to be an issue. One university, three campuses or three distinct campuses that make up one university. The flexibility to accommodate three distinct entities pursuing excellence in unique ways that contribute to the overall mission is absolutely critical. I am still not convinced that we are all on the same boat on this vision!

Ade

On Thu, Jul 24, 2014 at 10:43 AM, Joyce Tolliver [REDACTED] <[REDACTED]> wrote:
I think our Statutes provide the way toward a good solution.

Hope the Retreat goes well. I'm available to talk at your convenience.

best
Joyce

On Thu, Jul 24, 2014 at 8:56 AM, Phyllis Wise [REDACTED] <[REDACTED]> wrote:
We need to get this concept into the documents. There is so much more to talk about.

Sent from my iPad

On Jul 24, 2014, at 8:43 AM, Nick Burbules [REDACTED] <[REDACTED]> wrote:

Since we're diving into this, let me say that to me cases like this (or Kilgore) are NOT academic freedom (or free speech) issues.

I will defend those principles to the hilt. But having the right (and privilege) of these protections also comes with certain responsibilities as a professor and as a representative of the institution (and not just an individual saying whatever he or she likes).

It is this space, that protects rights but talks about responsibilities, that we need a thoughtful campus conversation.

I have much more to say, but not for email.

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Dear Ade and Phyllis,

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I'm attaching the documents that were sent to the senates late in the spring semester.

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Joyce

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Joyce Tolliver

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Joyce Tolliver

From: Ilesanmi Adesida [REDACTED] n>
Sent: Friday, July 25, 2014 1:00 AM
To: Nick Burbules
Cc: Joyce Tolliver; Phyllis Wise
Subject: Re: a relevant document

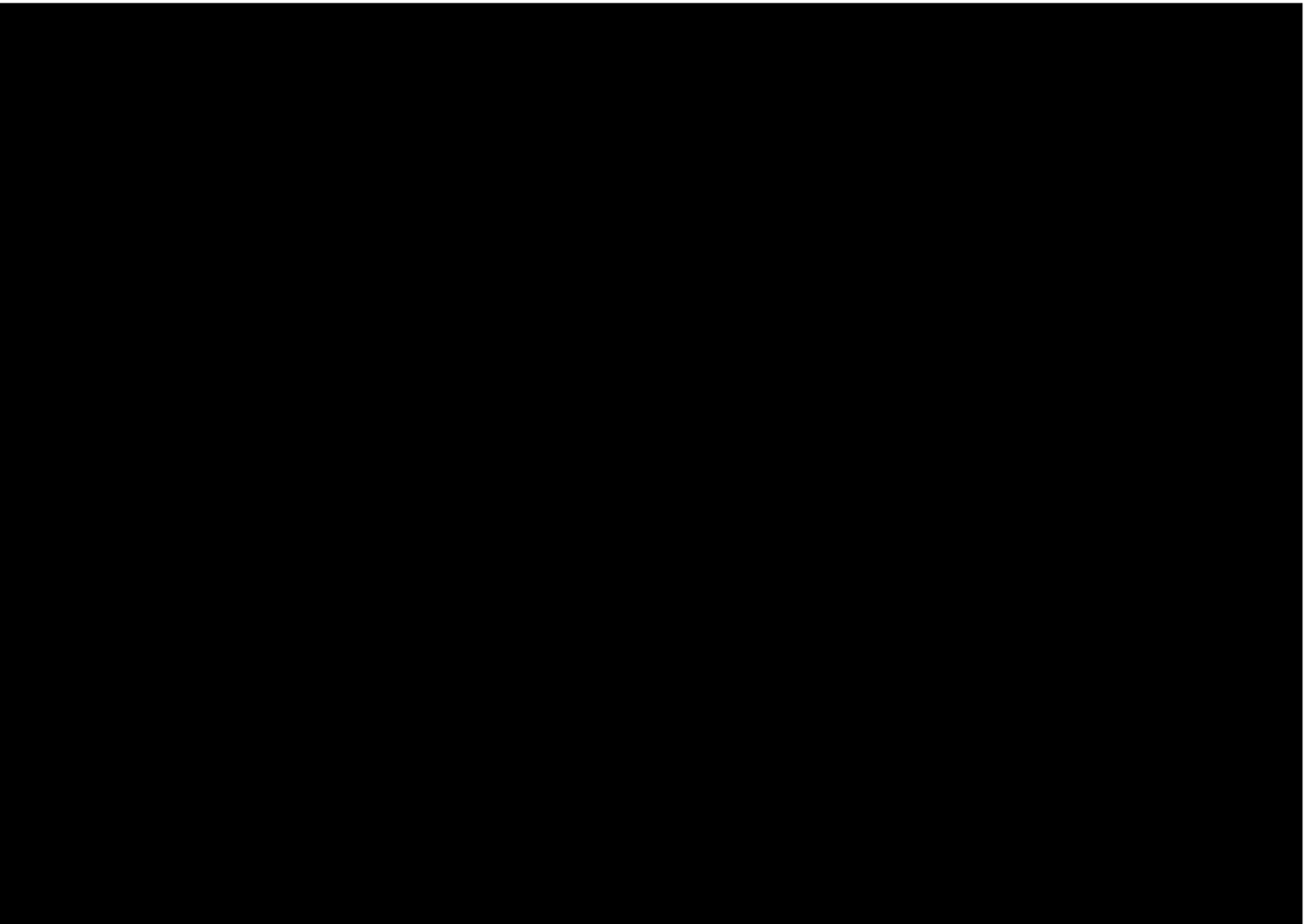
Nick,

Thanks for taking a crack at a statement. A statement re-emphasizing the core values of the institution must be made. Exactly when to make it is the judgement to be made. The new guy is not here yet and the faculty are everywhere now. Should a statement be put out now or do we wait? Anyway, we will discuss this tonight.

Ade

On Thu, Jul 24, 2014 at 12:32 PM, Nick Burbules [REDACTED] wrote:
For what it's worth, I would advise that the Chancellor (maybe jointly with the Provost) consider a public statement.

Perhaps something like this:



[REDACTED]

On Thu, Jul 24, 2014 at 10:43 AM, Joyce Tolliver [REDACTED] wrote:
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Hope the Retreat goes well. I'm available to talk at your convenience.

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Joyce Tolliver

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Joyce Tolliver

From: Nick Burbules [REDACTED] >
Sent: Friday, July 25, 2014 8:44 AM
To: Ilesanmi Adesida
Cc: Joyce Tolliver; Phyllis Wise
Subject: Re: a relevant document

On Fri, Jul 25, 2014 at 12:57 AM, Ilesanmi Adesida [REDACTED] > wrote:
Nick, Joyce,

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The critical issue that I saw was that whereas our campus developed a strategic plan last year as instructed, the other campuses did not! Overall, from the discussion today, I believe that with slight modifications, our campus' strategic plan goals could be slightly modified and scaled up as the themes for the "system" plan!

Thanks Ade, everyone,

I watched the afternoon session, and I agree that it was a good discussion. Here is something I sent the Chancellor:

I think [REDACTED] The U of I can't do everything, and there are some things that are not as much part of its mission as say, the mission of K-12, or the mission of community colleges, or of other universities in the state. But what U of I can do is lead, to set a standard, to help create an overall vision or model of higher education (or of economic development, or of innovation, etc). We can't and shouldn't try to do it all, but the leadership should come from us.

That's the kind of broad institutional goal that is good for the U of I . . . AND for our campus.

My overall concern as always is that the critical issue of what the University of Illinois is for the 21st century continues to be an issue. One university, three campuses or three distinct campuses that make up one university. The flexibility to accommodate three distinct entities pursuing excellence in unique ways that contribute to the overall mission is absolutely critical. I am still not convinced that we are all on the same boat on this vision!

No, we are not all in the same boat, but I want to share my perception. With Mike Hogan there was a basic metaphysical disagreement: a single "organic" entity with the President in charge of everything. No one is saying that any more.

The premise that the campuses are distinct and need strong Chancellors to lead them is universally acknowledged.

Within that, there continue to be differences of emphasis: some, like us, who want to treat the campuses

more like distinct universities (UC system), others who stress institution-wide policies and goals. These are differences, but not as dramatic as the fights we were having a couple of years ago, I think.

No one is saying that the President runs everything, or can tell the Chancellors how to run their campuses: UA, and UA's power, are shrinking from the Hogan days. And I think there is more to come along those lines.

Two areas in which this disagreement becomes substantively important. (1) I was struck yesterday by how different people used the word "flagship." Is the U of I the "flagship," or is Urbana the flagship within the U of I? This is a significant rhetorical shift.

(2) What is a "comprehensive" university? What concerned me the most yesterday, during an otherwise pretty positive discussion, was the idea that we can't AFFORD comprehensive campuses, but that the U of I as a whole is the "comprehensive" university. This idea gives ammunition to those who think that having programs in X at Urbana and in Chicago is "duplication."

In its most radical form, which I have heard from some, the U of I as a whole only needs one Business school, one Medical School, one Law school, etc, and it doesn't really matter which campus has it as long as the University as a whole shares it. This policy would be very damaging to Urbana, which needs to be a comprehensive university itself . . . and not just a piece of a comprehensive U of I.

I don't think this view has a lot of traction, but it is something to be aware of . . . and it does color how some people view the new proposed Urbana medical program.

Talk with you all tonight.

Nick

Ade

On Thu, Jul 24, 2014 at 10:43 AM, Joyce Tolliver [REDACTED] wrote:
I think our Statutes provide the way toward a good solution.

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I'm attaching the documents that were sent to the senates late in the spring semester.

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Joyce Tolliver

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Joyce Tolliver

From: Nick Burbules [REDACTED] m >
Sent: Friday, July 25, 2014 8:45 AM
To: Phyllis Wise
Cc: Joyce Tolliver; I Adesida
Subject: Re: a relevant document

Thanks Phyllis

I assume you mean tonight, this evening?

Nick

On Fri, Jul 25, 2014 at 5:55 AM, Phyllis Wise [REDACTED] > wrote:
Dear Joyce and Nick,

I have information from our executive session of the BOT that I will share with you (carefully) on Sunday evening.

Phyllis

On Thursday, July 24, 2014 8:33 AM, Joyce Tolliver [REDACTED] wrote:

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Joyce Tolliver

From: Joyce Tolliver [REDACTED]
Sent: Friday, July 25, 2014 9:00 AM
To: Phyllis Wise
Cc: I Adesida; Nick Burbules
Subject: Re: a relevant document

Thank you, Phyllis.

I look forward to our phone conversation this evening.

On Fri, Jul 25, 2014 at 5:55 AM, Phyllis Wise [REDACTED] wrote:
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Joyce Tolliver

From: Joyce Tolliver [mailto:jtolliver@uiowa.edu]
Sent: Friday, July 25, 2014 9:03 AM
To: Ilesanmi Adesida
Cc: Phyllis Wise; Nick Burbules
Subject: Re: a relevant document

Ade, I was able to see part of yesterday's discussion via streaming video, and found it interesting to track the conversational moves toward and away from the 1-U theme.

I was happy to hear you make the comment about the need to move away from parochial perspectives.

Joyce

On Fri, Jul 25, 2014 at 12:57 AM, Ilesanmi Adesida [mailto:adesida@uiowa.edu] wrote:
Nick, Joyce,

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Joyce Tolliver

From: Joyce Tolliver [REDACTED]
Sent: Friday, July 25, 2014 2:46 PM
To: Phyllis Wise; I Adesida; Nick Burbules
Subject: Finkin on AF
Attachments: finkin_post_AF_extramural copy.pdf

Dear Phyllis, Ade, and Nick,

I've scanned a section of Matt Finkin's and Robert Post's book on academic freedom that I have found helpful in considering the issue we'll discuss later this evening. I hope you also find it useful.

best
Joyce

--
Joyce Tolliver

For the Common Good

Principles of
American
Academic Freedom

MATTHEW W. FINKIN AND ROBERT C. POST

Yale University Press
New Haven & London

*To all who have defended academic freedom,
especially at great personal cost*

Published with assistance from the Louis Stern Memorial Fund.

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after nearly a decade of negotiation, the jointly formulated *Statement on Government of Colleges and Universities* was published.³² It recognizes the primacy of the faculty's role in fundamental educational matters,³³ but, more importantly for purposes here, it accords faculty a participative, consultative, or information-sharing role in virtually every important area of college and university life.³⁴

CHAPTER 6

Freedom of Extramural Expression

The most theoretically problematic aspect of academic freedom is extramural expression. This dimension of academic freedom does not concern communications that are connected to faculty expertise, for such expression is encompassed within freedom of research, a principle that includes both the freedom to inquire and the freedom to disseminate the results of inquiry. Nor does extramural expression concern communications made by faculty in their role as officers of institutions of higher education. Freedom of extramural expression refers instead to speech made by faculty in their capacity as citizens, speech that is typically about matters of public concern and that is unrelated to either scholarly expertise or institutional affiliation. If Scott Chisholm had burned a flag at a public

demonstration against the war in Vietnam,¹ or if David Green had burned his draft card at such a protest,² they would have engaged in extramural speech. The question is whether and how such speech is protected by academic freedom.

Theoretical Foundations

The question has been troublesome from the beginning. In his 1900 presidential address at the University of Chicago, William Rainey Harper condemned "abuses" of the professorial privilege of freedom of expression. One such abuse was indiscrete extramural speech: "A professor abuses his privilege in many cases when, although shut off in large measure from the world, and engaged within a narrow field of investigation, he undertakes to instruct his colleagues or the public concerning matters in the world at large in connection with which he has had little or no experience. A professor abuses his privilege of freedom of expression of opinion when he fails to exercise that quality, which it must be confessed in some cases the professor lacks, ordinarily called common sense. A professor ought not to make such an exhibition of his weakness or to make an exhibition of his weakness so many times that the attention of the public at large is called to the fact. In this respect he has no larger liberty than other men."³

In sharp contrast to its otherwise robust assertion of disciplinary self-confidence, the 1915 *Declaration* was genuinely diffident about extramural speech:

In their extramural utterances, it is obvious that academic teachers are under a peculiar obligation to avoid hasty or unverified or exaggerated statements, and to refrain from intemperate or sensational modes of expression. But, subject to these restraints, it is not, in this committee's opinion, desirable that scholars should be debarred from giving expression to their judgments upon controversial questions, or that their freedom of speech, outside the university, should be limited to questions falling within their own specialties. It is clearly not proper that they should be prohibited from lending their active support to organized movements which they believe to be in the public interest. And, speaking broadly, it may be said in the words of a nonacademic body already once quoted in a publication of this Association, that "it is neither possible nor desirable to deprive a college professor of the political rights vouchsafed to every citizen."

It is, however, a question deserving of consideration by members of the Association, and by university officials, how far academic teachers, at least those dealing with political, economic, and social subjects, should be prominent in the management of our great party organizations, or should be candidates for state or national offices of a distinctly political character. It is manifestly desirable that such teachers have minds untrammelled by party loyalties, unexcited by party enthusiasms, and unbiased by personal political ambitions; and that universities should remain uninvolved in party antagonisms. On the other hand, it is equally manifest that the material available for the service of the state would be restricted in a highly undesirable way, if it were understood that no member of the academic profession should ever be called upon to assume the responsibilities of public office. This question may, in the committee's opinion, suit-

ably be made a topic for special discussion at some future meeting of this Association, in order that a practical policy, which shall do justice to the two partially conflicting considerations that bear upon the matter, may be agreed upon.

The uncertainty of the 1915 *Declaration* was reflected in early Committee A investigations. An example is the case of Professor Arthur Fisher, who had been dismissed by the State Board of Education from his position as a professor of law at the University of Montana in 1921. Fisher was the editor of the *New Northwest*, the newspaper of the Nonpartisan League and the Farmer Labor Party. He was attacked by the American Legion and by the editor of Missoula's morning and evening newspapers, who protested that he was not fit for professorial office. "Academic freedom," the AAUP investigating committee, flatly stated, "is here not directly under consideration." "But," the committee added, "surely no teacher in a republic can be expected to unclothe himself of his interests and activities as a citizen of the State. Participation in outside activities—whether in the service of corporations, political parties, newspapers or churches or in any other field of public interest—should be left to the good judgment of the individual instructor."⁴

Despite these inauspicious beginnings, freedom of extramural expression developed rapidly in the next half century. By the time of the 1940 *Statement*, extramural expression was unambiguously accepted as an essential dimension of academic freedom, although the *Statement* was cautious in describing the extent to which extramural speech was protected: "College and university teachers are

citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution."⁵

In 1970, the AAUP and the Association of American Colleges authorized a joint and authoritative interpretation of the 1940 *Statement*⁶ that removed many of these qualifications: "The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position."

The Committee A case law that preceded and subsequently explained this recasting of the 1940 *Statement* is of great interest, and we consider it later in this chapter. At the moment, however, we turn to the larger theoretical question of why extramural expression should be protected as an aspect of *academic* freedom. Why should faculties be free to speak in public in ways that damage their institutions, even if such speech is by hypothesis unprotected by freedom of research or intramural expression?

Arthur Lovejoy, one of the primary authors of the 1915

Declaration, later implied that freedom of extramural expression should be regarded not as an aspect of academic freedom but instead as a kind of general civil liberty: "In some cases teachers have been dismissed or otherwise penalized because of their exercise, outside the university, of their ordinary political or personal freedom in a manner or for purposes objectionable to the governing authorities of their institutions. While such administrative action is contrary to the spirit of academic freedom, it is primarily a special case of the abuse of the economic relation of employer and employee for the denial of ordinary civil liberties."⁷ No less a champion of academic freedom than Harvard president Abbott Lawrence Lowell offered a similar analysis, concluding that "the right of a professor to express his views without restraint on matters lying outside the sphere of his professorship" was "not a question of academic freedom in its true sense, but of the personal liberty of the citizen. It has nothing to do with liberty of research and instruction in the subject for which the professor occupies the chair that makes him a member of the university. The fact that a man fills a chair of astronomy, for example, confers on him no special knowledge of, and no peculiar right to speak upon, the protective tariff. His right to speak about a subject on which he is not an authority is simply the right of any other man, and the question is simply whether the university or college by employing him as a professor acquires a right to restrict his freedom as a citizen."⁸

The idea that freedom of extramural expression reflects "ordinary civil liberties" or "the personal liberty of the citizen" is unconvincing. Citizens typically retain civil liber-

ties against government sanctions, not against private authority. Absent specific statutory protections, which are quite rare, courts are extremely reluctant to apply norms of freedom of expression to private work relationships. In the absence of contractual protections, the vast majority of employees have nothing like freedom of extramural expression vis-à-vis their employers.

Employees of the state stand in a somewhat different position. In the years since the 1940 *Statement*, government employees have acquired certain First Amendment rights that protect their ability to speak in public as citizens. Some extramural speech of faculty at public universities is therefore protected by the Constitution.⁹ But these protections should not be confused with the profession's understanding of freedom of extramural expression. The First Amendment has been interpreted to allow the regulation of employee speech for broad managerial purposes that afford much deference to "the mission and functions of the [government] employer."¹⁰ The scope of First Amendment rights is accordingly quite limited.¹¹ Whatever justifications freedom of extramural expression might have, they plainly do not derive from the cribbed constitutional rights of government employees.

Three distinct lines of analysis have been developed to explain why freedom of extramural expression might be included within the principles of academic freedom. The first rests on the premise that it is difficult and dangerous to set artificial limits on faculty expertise, so efforts to distinguish speech within a scholar's competence from speech outside that competence ought to be discouraged. Con-

sider the example of Noam Chomsky. Trained only as a linguist, and hired only to teach linguistics, Chomsky nevertheless continues to write highly controversial publications about foreign policy.¹² To assert that Chomsky's freedom of research can extend only so far as the courses he happens to teach, or only so far as the training he happened to receive, would needlessly inhibit the natural growth and expansion of his academic interests. Seen from this angle, we might argue that the scholarly ambition and form of Chomsky's publications justify their protection as an aspect of his freedom of research.

Something like the Chomsky example arose in 1931 when the Board of Trustees of the Ohio State University dismissed Herbert A. Miller, a professor of sociology, for having spoken at a march sponsored by Mahatma Gandhi in Bombay, India. The board's ostensible ground was that Miller's speech would give offense to the British.¹³ (This ground was bad enough, but the AAUP investigating committee found that it was in fact a pretext for the board's dislike of Professor Miller's views on race relations.)¹⁴ Professor Miller was a sociologist of race who had a personal interest in China and India. His remarks show how difficult it can be to separate professional from civic expression:

I feel that it is not right that an American should be asked to speak at this meeting. But I am a professor who is interested in the way human beings are trying to solve their problems. I have spent five years in India and have seen many of the great men of India. I know that the whole world is looking

toward that noble experiment which Mahatma Gandhi has started, and they are trying to discover two things. The first is, how much are you interested in the movement and second how will you settle the differences between you.

I feel that this movement is very characteristic of the history of India. For the last five thousand years the great contribution of India has been religion. The thing you are trying to do now is to bring religion to the solution of the two great problems that I have mentioned, namely, the problem of settling your differences in a genuine religious spirit and the problem of applying religion to the solution of practical problems. The success of this movement will be the greatest contribution that India would ever make to human affairs.¹⁵

The influence of Miller's research and scholarship is plainly evident in his remarks.

The attempt to justify freedom of extramural expression in terms of its intrinsic connection to freedom of research is fraught with conceptual difficulties. It suggests that the very category of extramural expression is superfluous because it is entirely indistinguishable from freedom of research. It also implies that professional standards of care and rigor ought to apply to extramural speech.¹⁶ Expression appropriate to freedom of research contrasts rather sharply with the "uninhibited, robust, and wide-open" speech that characterizes the public debate of citizens.¹⁷ Some such thought seems to lie behind the hedged protections for extramural speech advanced by the 1940 *Statement*, which is alert to the idea that "the public may judge" the profession and higher education on the basis of extra-

mural speech, which must therefore "at all times be accurate" and display "appropriate restraint."

Most fundamentally, it seems implausible to claim that all extramural expression by faculty is connected to freedom of research and publication. It may be difficult to draw lines in particular cases, but surely we are not utterly incapable of distinguishing between speech that does and does not express scholarly expertise. Lowell's example of the astronomer who opines on the tariff comes to mind.¹⁸ It seems overwrought to claim that *nothing* is theoretically beyond the legitimate professional expertise of a scholar because the "prolonged and specialized technical training" of the professoriat imparts a methodological rigor that can contribute to the search for knowledge in any and all matters.

The deficiencies of this justification of freedom of extramural expression have prompted a second line of analysis, which focuses on the practical situation of institutions of higher education and the faculty within them. Universities and colleges may penalize politically outspoken professors to appease powerful interests—typically donors, trustees, or state legislatures—who are outraged by faculty expression. Invoking a theme advanced in the 1940 *Statement*, institutions of higher education tend to believe that their reputation and support might suffer if they are associated with an "irresponsible" instructor. They know that in the eyes of the public, universities and colleges are frequently held accountable for the expression of their faculty.

The risk that important constituencies might take offense at faculty speech thus perennially overhangs univer-

sities. The threat persists whether faculty speech constitutes an exercise of professional expertise, and hence is protected by the fundamental freedom of research and publication, or whether faculty speech is by contrast unrelated to any professional scholarship, and hence constitutes extramural speech. An example of the former is the case of Louis Levine, which we discussed in chapter 3.¹⁹ An example of the latter is the case of William Wickersham, whose signed employment agreement with Columbia College (Missouri) was repudiated by the board of trustees because he participated in peace demonstrations at the nearby University of Missouri.²⁰

Fundamental principles of academic freedom require institutions of higher education to resist public pressure to punish professors like Levine whose research causes public outrage. But it is plain that universities and colleges would be placed in an extremely awkward position were they to refuse to discipline speech protected by freedom of research and publication, but seek to appease public indignation with regard to extramural expression that is unrelated to professional competence, like Wickersham's. In such circumstances universities and colleges would virtually invite offended constituencies to argue that faculty expression should be censored because it is insufficiently related to scholarly expertise to merit the protection of freedom of research.

Institutions of higher education would thus strengthen their ability to protect freedom of research if they refused categorically to accept responsibility for the expression of their faculty, regardless of the precise connection between

such expression and the academic expertise for which faculty have been hired or trained. The advantages of such a categorical rule prompted Abbott Lawrence Lowell to support exactly this rationale for freedom of extramural expression: "If a university or college censors what its professors may say, if it restrains them from uttering something that it does not approve, it thereby assumes responsibility for that which it permits them to say. This is logical and inevitable, but it is a responsibility which an institution of learning would be very unwise in assuming. . . . If a university is right in restraining its professors, it has a duty to do so, and it is responsible for whatever it permits. There is no middle ground. Either the university assumes full responsibility for permitting its professors to express certain opinions in public, or it assumes no responsibility whatever, and leaves them to be dealt with like other citizens by the public authorities according to the laws of the land."²¹

Freedom of extramural expression can on these grounds be defended as a good strategy for minimizing the institutional vulnerability of institutions that must protect freedom of research. Just as universities and colleges disclaim responsibility for the many conflicting contentions of the millions of books that they collect in their libraries, so that no one can plausibly claim that a university supports a geocentric view of the solar system merely because its library contains a copy of Ptolemy, so universities and colleges can disclaim responsibility for the many conflicting political contentions of their faculty, so that no one can plausibly claim that a university supports the Palestinian

cause because a computer scientist in its engineering department happens to take that position.²²

Viewed in this way, however, freedom of extramural expression ceases to constitute a distinct right of academic freedom, but instead finds its justification in counsels of institutional expedience and prudence. Its rationale depends upon wise organizational policy. Those who desire a stronger, more bracing defense of extramural expression have therefore turned to yet a third line of analysis, which stresses the perspective of faculty rather than that of institutional managers.

Beginning with the premise that the experience of freedom is indivisible, this justification of freedom of extramural expression postulates that faculty can promote knowledge or model independent thought in the classroom only if they are *actively* and *imaginatively* engaged in their work. If faculty experience their institutions as repressive, they will be vulnerable to forms of self-censorship and self-restraint that are inconsistent with the confidence necessary for research and teaching. The harm would be enhanced if faculty were confused about which communications were protected by freedom of research and which communications would be exposed to punishment if freedom of extramural speech were not a recognized dimension of academic freedom. Such confusion would be inevitable because the line between academic expertise and extramural expression is unclear, as is illustrated in the examples of Noam Chomsky and Herbert Miller. To suppress extramural speech would thus create an atmosphere of re-

pression inconsistent with the climate of trust and autonomy necessary for faculty to contribute optimally to the mission of higher education.

On this account, freedom of extramural expression is conceptualized as a prophylactic protection for freedom of research and freedom of teaching. Freedom of extramural expression is justified by a practical concern for maintaining conditions conducive to the performance of essential faculty tasks. Of the three justifications for freedom of extramural expression, this is the explanation that recurs most prominently in the case law of Committee A.

Committee A Precedents

An important early case involving freedom of extramural expression under the 1940 *Statement* involved the dismissal of George F. Parker, an assistant professor of religion and philosophy at Evansville College in Indiana.²³ One charge against Parker was that he actively supported Henry Wallace's campaign for the presidency of the United States. Evansville's president, Lincoln B. Hale, had cautioned Parker against assuming the chairmanship of Wallace's county campaign committee. "I made it quite clear," President Hale later wrote, "that further participation in such an official political capacity would prove embarrassing to me and would be certain to seriously harm Evansville College."

On the evening of April 6, 1948, Wallace addressed a large political rally. Professor Parker delivered an invocation (he was an ordained minister of the Baptist Church)

and offered a brief talk. The rally was a tumultuous affair, and a vigorous communal clamor for Parker's removal ensued. President Hale acceded to the public demand. The case for removal was put succinctly in a public statement of the college's administrative officers: "Of basic significance is the urban college pattern—the fact that Evansville College is 'closely integrated with the city, whose broad educational need it serves,' and therefore 'is sensitive to the community which values its work and services.' Because of this integration and sensitivity, the conspicuous involvement of a Faculty member in politics is interpreted by the public as involving the College itself; as a result the College loses the general, nonpartisan support of the community, and suffers a loss of influence and effectiveness. A teacher who stands stubbornly upon some theoretical right and disregards the effect upon the College exhibits such a degree of irresponsibility that the College can protect itself only by removing him."

The AAUP investigating committee first addressed the 1940 *Statement's* requirement that faculty demonstrate "appropriate restraint" in speaking or writing "as citizens." The committee reasoned that the *Statement* could not be interpreted to mean a withdrawal from all political activity disfavored by a college administration, because that would be inconsistent with the *Statement's* recognition that faculty retained rights of citizenship. Because Parker did no more than publicly support a political candidate, his behavior could not be categorized as failing to demonstrate "appropriate restraint."

The committee recognized a distinction between free-

dom of teaching and research and freedom of extramural expression, but it claimed that the latter was "of cognate importance": "An institution of higher learning in which freedom of teaching and research do not exist is unworthy of the name, no matter how successful it may have been in community relationships, in fund-raising campaigns, and in other enterprises. For example, if research, reasonably conceived and properly executed, leads to conclusions that are offensive to potent local interests, and arouses hostile criticism, the teacher concerned should expect the support of the institution's administration. *Civic and political freedom for teachers is of cognate importance.*"²⁴

The committee's reasoning turned on the indivisibility of freedom within institutions of higher education. The dismissal of Parker threatened "*the loss of freedom*, without which no institution of higher education can fulfill its obligations to the students and to society." The committee drew upon a report by Committee A of the previous year, which had addressed the question whether membership in the Communist Party should be considered per se grounds for dismissal. Committee A concluded that the exclusion of teachers with "unorthodox political views . . . would mean the exclusion of some of the liveliest intellects and most stimulating personalities on our campuses. Furthermore, the acceptance of political discrimination might well be the wolf's paw in the door; such discrimination might presently extend to other types of heterodoxy. Faculty members in general might . . . sagaciously conclude that they cannot afford the luxury of ranging thought and bold speech. Our campuses would then lose the stimulus

of clashing opinions and would become havens of cautious mediocrity. Having surrendered its function of criticism and improvement, higher education would retain only its function of preservation and transmission; it would be ready to become an instrument of indoctrination for an authoritarian society."²⁵

Faculty are likely to believe that an institution that is quick to suppress unpopular extramural speech is not likely to shield unpopular faculty expression that constitutes genuine research or the exercise of genuine independence in the classroom. An institution inclined to yield to the pressure of its constituencies is not likely to inspire the trust required to sustain the active engagement necessary for faculty to perform their work. The suppression of extramural speech can thus establish an atmosphere of caution and fear that is inconsistent with the fulfillment of the academic mission to promote new knowledge and to model independent thought. That, at least, was the conclusion of Committee A, which, reflecting on the firing of Parker, declared that the suppression of political action "cannot be confined to nonacademic activities; and unless we adhere to the principles of freedom it will inevitably manifest itself in scholarship and will reduce learning to dogmatism." Committee A explained:

When the Administration of a college or university represses a political activity which contravenes dominant local opinions, it thereby lends its support to the establishment of those opinions. The institution that travels far in this direction is soon reduced, in so far as it is effective at

all, to the role of serving as an agency of indoctrination in the views of some group or party. When it begins, in the face of local pressures, to yield its functions as a guardian of freedom, it does more than restrict political freedom; it inevitably curtails its capacity to foster the search for truth, and to that extent contributes to shape itself into the pattern of those who regard the truth as already fully known. It matters not whether the field be that of political action, or of research and teaching in science, politics, religion, or social theory; youth seeking a proper education in a changing world needs to repair to places where there is courage to face what the seekers may find and what the future may unfold. This courage will not long survive among those who are terrorized or repressed in their political and civic lives.²⁶

Committee A's commitment to this principle underlies the important series of cases in which it sought to clarify the meaning of the many qualifications that the 1940 *Statement* imposed on extramural expression. As we have noted, the *Statement* provides that faculty "should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution." The meaning of these reservations came to a head in the dismissal of Leo Koch, an assistant professor of biology at the University of Illinois, in 1960.²⁷ The student newspaper had published an article about sex on the campus. This prompted Professor Koch to write a

letter to the editor condemning Victorian prudery and religious Puritanism: "With modern contraceptives and medical advice readily available at the nearest drugstore, or at least a family physician, there is no valid reason why sexual intercourse should not be condoned among those sufficiently mature to engage in it without social consequences and without violating their own codes of morality and ethics."

The letter was condemned straightaway by the university's president, who ordered Koch's termination. The matter was heard by the faculty senate, which recommended a reprimand in lieu of discharge but which argued that the letter was a breach of academic responsibility because its manner of expression was inimical to the standing of the university in the eyes of the people of Illinois. The matter was later heard by the board of trustees, which found the "language, tone, and contents of the letter" a "reprehensible breach of . . . academic and professional responsibility" and "prejudicial to the best interests" of the university. The board discharged Koch.

The AAUP investigating committee, chaired by Thomas I. Emerson of Yale Law School, reviewed the history of the 1940 *Statement* and concluded that the reservations of the 1940 *Statement* were only hortatory.²⁸ Its interpretation of the *Statement* was consistent with a 1956 AAUP report titled *Academic Freedom and Tenure in the Quest for National Security*, which had concluded that the mere refusal of a faculty member to account for his political beliefs or associations to a congressional committee or to his home institution could not be considered a sufficient

cause for dismissal. The touchstone must instead be fitness for office: "Removal can be justified only on the ground, established by evidence, of unfitness to teach because of incompetence, lack of scholarly objectivity or integrity, serious misuse of the classroom or of academic prestige, gross personal misconduct, or conscious participation in conspiracy against the government. The same principle applies, *a fortiori*, to alleged involvement in Communist-inspired activities or views."²⁹ This conclusion implied that faculty could not be penalized for extramural expression unless their speech also evidenced unfitness for the tasks of research, teaching, or institutional citizenship.

This same conclusion underlay the investigating committee's interpretation of the 1940 *Statement* in the Koch case. Notwithstanding its earlier pronouncements, Committee A was unwilling to endorse this understanding of the 1940 *Statement*, although it was willing to authorize publication of the investigating committee's report.³⁰ The investigating committee was vindicated in 1970 when the AAUP, together with the Association of American Colleges, issued what is now the definitive interpretation of the 1940 *Statement*. That interpretation expressly provides that "the controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position."

The significance of this interpretation of the 1940 *State-*

ment was explicated in the investigation of one of the most contentious campus controversies of the latter part of the twentieth century—the decision of the Board of Regents of the University of California to relieve the president of the university and the chancellor of the Los Angeles campus of any responsibility in the matter of the reappointment of Angela Davis as acting assistant professor of philosophy and itself to issue her notice of nonrenewal of appointment. The basis for the board's unprecedented action was a series of four public speeches that the regents concluded were "so extreme, so antithetical to the protection of academic freedom and so obviously deliberately false in several respects" as to be disqualifying.

The AAUP investigating committee attended to the idea of *fitness*. "The faculty member's shortcoming must be shown to bear some identified relation to his capacity or willingness to perform the responsibilities, broadly conceived, to his students, to his colleagues, to his discipline, or to the functions of his institution, that pertain to his assignment. The concept cannot be reduced to a generalized judgment of 'unsuitability' at large. AAUP standards of responsibility identify objectionable features in extramural speech, and their presence in any serious degree is *prima facie* evidence to trigger an inquiry into the speaker's fitness for an academic position, *but it does not by itself establish unfitness*." The committee linked the concept of fitness to professional self-regulation, arguing that faculty, who were experts in scholarly standards and norms, were better able to judge fitness than a lay board of regents: "Academic judges may have a higher tolerance for verbal

contention, however farfetched or indiscreet, for reasons that go beyond mere guild loyalty; but they may be more concerned with evidence of charlatanism or overall quality in the speaker's total academic performance. Presumably, on the other hand, controversial extramural utterance will be of concern to a lay governing board precisely to the extent that it is a matter of public rather than academic controversy. To that extent, the judgment of such a board under an identical general standard is likely to focus on those aspects of the total conduct that outrage public sensibilities and to undervalue those that relate to professional performance within the academic discipline."³¹

X The upshot of this reasoning is that extramural speech cannot be disciplined unless it bears on professional competence, and judgments of professional competence, for reasons we have discussed, are primarily reserved for faculty determination.³² Because principles of academic freedom obligate faculty to observe norms of professional competence, regulating extramural expression in this way cannot chill the freedoms necessary for faculty engagement. Faculty can concentrate on fulfilling their professional responsibilities rather than worry about offending public constituencies. This has been the theory of extramural expression advanced by Committee A for the past many decades.

CHAPTER 7

Conclusion

On Professional Responsibility

✓ Academic freedom is not the freedom to speak or to teach just as one wishes. It is the freedom to pursue the scholarly profession, inside and outside the classroom, according to the norms and standards of that profession. good quote

The 1915 *Declaration* perceived three primary threats to this freedom. The first concerned an ecclesiastical orthodoxy that sought to restrict professional autonomy in the interests of religious truth. This threat has abated with the decline in the proportion of religiously affiliated institutions in higher education¹ and with the spread of the secular ideals of the 1940 *Statement*, even among church-related institutions.²

The second threat involved the prerogatives of "vested interests" who claimed that their financial support of insti-

tutions of higher education carried with it the right to demand conformity with their own particular views. Although this quasi-proprietary claim is not trumpeted today as it was a century ago, it has revived in a new, more subtle, but no less dangerous, form. Donors may no longer claim the prerogative to proscribe dissent, but they may assert the right to prescribe the content of the programs they fund.³ The ravenous need for financial resources has driven universities to encourage research investment by private corporations, which, predictably, will seek to control the direction and dissemination of university research. Derek Bok has not been alone in warning that universities must remain especially vigilant to ensure that this mounting dependence does not seriously undermine professorial and institutional autonomy.⁴

The third threat was pervasive and ineradicable. The drafters of the 1915 *Declaration* feared most of all what they called "the tyranny of public opinion." They recognized "the tendency of modern democracy . . . for men to think alike, to feel alike, and to speak alike," and they were apprehensive that "any departure from the conventional standards is apt to be regarded with suspicion." The 1915 *Declaration* identified a structural paradox: in a democracy, all institutions of higher education must ultimately depend on popular support, yet faculty cannot pursue new knowledge or instill independence of mind if they are bound by the pieties of public opinion. This paradox persists. We have seen it illustrated time and again in this volume. Arthur Fisher was dismissed in 1921 for offending the American Legion;⁵ George Parker was dismissed in

1948 for espousing leftist political beliefs unacceptable in a small Midwestern community;⁶ Scott Chisholm was dismissed in 1967 for antagonizing patriotic sensibilities statewide.⁷ The paradox is just as relevant for us now as it was in 1915.

Public opinion threatens the autonomy of the scholarly profession in many ways. The raw political force of state legislatures can directly regulate and punish.⁸ When Louis Levine was suspended by the University of Montana in 1919, it was on the ground that his publication "would alienate certain friends of the University in the state legislature, and prevent the expected and needed appropriation."⁹ When the Ohio State University dismissed Herbert A. Miller in 1931, the AAUP investigating committee noted that "with trustees appointed by the governor, with three trustees out of seven resident in [Columbus], constantly under the eye of the Legislature to which it must apply for its support, the University experiences difficulty in maintaining that detachment from political influences and popular prejudices in which its scholarly work and educational activities can be most effectively pursued."¹⁰

Even without the direct intervention of elected officials, public opinion powerfully influences the decisions of university administrators. They know that unpopular faculty can arouse the disapproval of alumni, donors, parents, and other significant groups. The AAUP committee investigating the 1934 dismissal of Ralph E. Turner reported that the chancellor of the University of Pittsburgh "was extremely sensitive to criticism of whatever nature if it came from possible donors or would tend in any way to jeopardize the

completion" of the "Cathedral of Learning," a large building project upon which the Chancellor had set his heart.¹¹ University administrators "frequently admonished the faculty not to say things that might antagonize 'influential people.'"¹² In 1949 Rocky Mountain College terminated the contract of Professor Myron L. Tripp because "'fear was expressed' that his retention 'would make it more difficult to solicit funds . . . from conservative businessmen,'" and administrators believed that it was necessary for Tripp to go "in order that donations would come in and peace be restored."¹³

The profession of scholarship requires public support, yet it must also remain independent from public opinion. This dilemma is difficult to negotiate and always tempting to resolve in ways incompatible with basic principles of academic freedom. Consider, for example, Nicholas Murray Butler, who presided over Columbia University for over forty-three years.¹⁴ Butler understood one side of the dilemma. He keenly appreciated the force of public opinion, proclaiming that scholars owed "a decent respect to the opinions of mankind. Men who feel that their personal convictions require them to treat the mature opinion of the civilized world without respect or with active contempt may well be given an opportunity to do so from private station and without the added influence and prestige of a university's name." He believed that faculty ought to behave "like gentlemen" and use their freedom "responsibly."¹⁵

Appeals to "responsibility" and "restraint" are typical of those who perceive the dependence of higher education on "the opinions of mankind." Thus the Commission on Aca-

ademic Freedom and Tenure of the Association of American Colleges asserted in 1922: "Academic freedom is not a myth, neither is it license unrestrained and irresponsible. What it should be may be stated best in terms of liberty and responsibility. The ideal college atmosphere is one in which, on the one hand, the institution guarantees to all its teachers unrestricted freedom in teaching, investigation, and publication, and in which, on the other hand, competent, judicious scholars exercise their freedom *with fitting regard for the welfare and reputation of the institution they serve.*" Such an atmosphere should be the ultimate aim of learning; in it every trace of the problem of academic freedom would disappear."¹⁶

"Responsibility" and "restraint" figure prominently and dubiously as standards of conduct in the annals of American academic freedom.¹⁷ The administration of Evansville College, when it dismissed George Parker, proclaimed that "a teacher who stands stubbornly upon some theoretical right and disregards the effect upon the College exhibits such a degree of irresponsibility that the College can protect itself only by removing him."¹⁸ The administration of Indiana State University, when it dismissed Scott Chisholm, argued that Chisholm had failed to "exercise appropriate restraint and show respect for the beliefs, opinions and attitudes of others."¹⁹ Refusing in 1958 to reappoint assistant professor of economics Bud R. Hutchinson because he had published a letter to the college newspaper criticizing its opposition to integration, the administration of Alabama Polytechnic Institute concluded that Hutchinson had failed to exercise "appropriate restraint" and to

good
quote

* * "show respect for the opinions of others" and that he had thus been "irresponsible" and flouted the 'known opinion of the administration.'"²⁰ In 2007 a report focusing on campus debate involving Israeli-Palestinian issues called for "a responsibilities-based approach to upholding academic freedom."²¹

Appeals to responsibility and restraint are no doubt rhetorically effective, but great care must be taken to define the meaning of these terms precisely. Throughout this volume we have stressed that academic responsibility and restraint are indeed required by academic freedom, because academic freedom is the right to pursue a scholar's profession according to the norms of that profession and faculty can accordingly be held accountable for compliance with these norms.²² But there is a fundamental distinction between holding faculty accountable to professional norms and holding them accountable to public opinion.²³ The former exemplifies academic freedom; the latter undermines it. Even though institutions of higher education in fact depend on public acceptance, they cannot shackle scholars to the "generally accepted beliefs" of those "persons, private or official, through whom society provides the means for the maintenance of universities."²⁴ Used in the wrong way, catchphrases of responsibility and restraint can "become a negation, rather than a complement, of academic freedom."²⁵

The architects of the American idea of academic freedom were well aware of this danger.²⁶ They knew both that faculty should be professionally responsible and that professional responsibility should be insulated from the pie-

ties of public opinion. They knew both that institutions of higher education would be dependent on public support and that the creation of new knowledge and the pedagogical inculcation of a mature independence of mind required professional autonomy from "the tyranny of public opinion." They devoted their most astute and incisive efforts to the task of bequeathing us a principled tradition in which this fragile autonomy could be maintained. They called it academic freedom.

tion in an academic institution." *Academic Freedom and Tenure: Catawba College*, 43 AAUP Bull. 196, 221 (1957) (emphasis added).

30. E.g., Charles Dennison, *Faculty Rights and Obligations in Eight Liberal Arts Colleges* (1955).

31. See generally Henry L. Mason, *College and University Government* (Tulane Studies in Political Science, vol. 14, 1972). Mason quotes Ralph S. Brown of the Yale Law School to the effect that faculty participation in institutional government is a "complement to the right and responsibility to teach conscientiously and to investigate freely." *Id.* at 55.

32. *Statement on Government of Colleges and Universities*, reprinted in *AAUP Policy Documents and Reports* 135 (10th ed. 2006). The statement was drafted by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges.

33. In an ironic twist, the U.S. Supreme Court held that faculty members of a private university who collectively possessed the right to recommend university policy were included within corporate management and thereby excluded from the coverage of the National Labor Relations Act. *NLRB v. Yeshiva University*, 444 U.S. 672 (1980). The Court noted that "traditional systems of collegiality . . . insulate the professor from some of the sanctions applied to an industrial manager who fails to adhere to company policy." *Id.* at 689. For criticism of the decision, see Matthew Finkin, *The Yeshiva Decision: A Somewhat Different View*, 7 J.C. & U.L. 321 (1980-1981). On the downright perversity of the Court's perception of where managerial control actually lay in Yeshiva University, see *Academic Freedom and Tenure: Yeshiva University*, Academe, Aug. 1981, at 186.

34. The limits of intramural expression have not been well charted in the AAUP's case law. Just as speech in the classroom is subject to limits, so is intramural expression. Attempts to physically silence a campus speaker out of disagreement with the speaker's views, even out of moral repulsion for the speaker, are not protected by academic freedom, no matter how sincere, deeply held, and principled the objection. *Northwestern University: A Case of Denial of Tenure*, Academe, May-June 1988, at 55.

Nor would serious criticisms of an administration be sheltered when uttered with knowledge of falsity. *Academic Freedom and Tenure: University of Cumberlands (Ky)*, Academe, Mar.-Apr. 2005, at 99, 109; *Academic Freedom and Tenure: Wesley College (Delaware)*, Academe, May-June 1992, at 24, 33.

Chapter 6. Freedom of Extramural Expression

1. See *Academic Freedom and Tenure: Indiana State University*, 56 AAUP Bull. 52 (1970); chapter 4, text accompanying note 45.

2. See *Academic Freedom and Tenure: The Ohio State University*, 58 AAUP Bull. 306 (1972); chapter 4, text accompanying note 29.

3. William Rainey Harper, *Presidential Address*, 5 U. Chi. Rec. 370, 377 (1901).

4. *Report on the University of Montana*, 10 AAUP Bull. 154, 158 (1924). The investigating committee included Ernst Freund of the University of Chicago Law School. The American Legion had attacked Professor Fisher's negative views on American involvement in the Great War.

5. The drafting of the 1940 *Statement's* protection for extramural utterance is recounted in Walter P. Metzger, *The 1940 Statement of Principles on Academic Freedom and Tenure*, 53 Law & Contemp. Probs. 3, 51-64 (1990), reprinted in *Freedom and Tenure in the Academy* 3, 51-64 (William Van Alstyne ed., 1993).

6. The interpretive comment was based on the *Committee A Statement on Extramural Utterances* (1964), reprinted in *AAUP Policy Documents and Reports* 32 (10th ed. 2006).

7. Arthur O. Lovejoy, *Academic Freedom*, in *Encyclopedia of the Social Sciences* 384, 386 (Edwin R. A. Seligman & Alvin Johnson eds., 1930).

8. Henry Aaron Yeomans, *Abbott Lawrence Lowell, 1856-1943*, at 310 (1948). John Searle makes a similar point, John R. Searle, *Two Concepts of Academic Freedom*, in *The Concept of Academic Freedom* 92 (Edmund L. Pincoffs ed., 1975), as does William Van Alstyne, William Van Alstyne, *The Specific Theory*

of *Academic Freedom and the General Issue of Civil Liberty*, in *The Concept of Academic Freedom*, *supra*, at 59. Most recently, the point has been made in Leslie Green, *Civil Disobedience and Academic Freedom*, 41 Osgoode Hall L.J. 381 (2003).

9. Rebecca Gose Lynch, *Pawns of the State or Priests of Democracy? Analyzing Professors' Academic Freedom Rights within the State's Managerial Realm*, 91 Calif. L. Rev. 1061 (2003).

10. *San Diego v. Roe*, 543 U.S. 77, 84 (2004); see, e.g., *Connick v. Myers*, 461 U.S. 138 (1983); *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968).

11. See, e.g., *Garcetti v. Ceballos*, 547 U.S. 410 (2006); *Urofsky v. Gilmore*, 216 F.3d 401 (4th Cir. 2000); *Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991); Ailsa W. Chang, *Resuscitating the Constitutional "Theory" of Academic Freedom: A Search for a Standard Beyond Pickering and Connick*, 53 Stan. L. Rev. 915 (2001).

12. See, e.g., Noam Chomsky, *Hegemony or Survival: America's Quest for Global Dominance* (2003).

13. *Academic Freedom and Tenure at the Ohio State University*, 17 AAUP Bull. 443 (1931). Another ground given for Miller's dismissal was a press report that while in Korea—then a Japanese colony—Miller had been escorted out of a public lecture by Japanese authorities because in his remarks he had referred to Czechoslovakia as a "republic," a word whose utterance was forbidden by the Japanese.

14. Professor Miller's "laboratory practice" was to give interracial teas for students and to conduct class visits to historically black Wilberforce University. Class attendance was not obligatory for either, but even so the investigating committee quotes one trustee saying of Miller, "He made his students dance with niggers." *Id.* at 454.

15. *Id.* at 445.

16. The consequences of justifying freedom of extramural expression in this way were made evident by John Silber when he was dean at the University of Texas. In 1967, in the heated environment of the Vietnam War, a young assistant professor of philosophy had asserted the existence of concentration camps (and a good deal more) in an impassioned political speech on the steps

of the Texas state capitol. Silber refused to renew the professor's appointment on the ground that he had "told a lie to make a rhetorical point." Silber believed that the professor had committed a "a gross betrayal of academic freedom." John Silber, *Poisoning the Wells of Academe*, 43 Encounter 30, 37 (1974). Silber is reported to have said to the philosopher that he couldn't be "a Socrates in Athens and a common sophist in the Piraeus." Ronnie Dugger, *Our Invaded Universities* 127 (1974). Silber's argument presupposes that protections for extramural speech derive from freedom of research and hence are subject to the professional standards that apply to freedom of research.

17. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

18. See *supra* note 8 and accompanying text.

19. See *Committee on Academic Freedom: Statement on the Case of Professor Louis Levine of the University of Montana*, 5 AAUP Bull. 13 (1919); chapter 3, text accompanying note 29.

20. *Academic Freedom and Tenure: Columbia College (Missouri)*, 57 AAUP Bull. 513 (1971). The AAUP investigating committee deemed the repudiation of the employment agreement a violation of academic freedom because it "was based, in significant measure, not upon academic considerations but upon what was viewed as the public relations position of the College. The ad hoc committee does not consider this a proper basis of a decision of this kind. A decision so based essentially removes the authority for academic decisions from the faculty and administration to the community and thus seriously jeopardizes academic freedom, the exercise of which frequently results in community pressures." *Id.* at 517.

21. Yeomans, *supra* note 8, at 311-12.

22. See *Academic Freedom and Tenure: University of South Florida, Academe*, May-June 2003, at 59, 65-66.

23. See *Academic Freedom and Tenure: Evansville College*, 35 AAUP Bull. 74 (1949); chapter 4, text accompanying note 28.

24. *Id.* at 108 (emphasis added).

25. *Report of Committee A for 1947*, 34 AAUP Bull. 110, 126 (1948).

26. *Report of Committee A for 1948*, 35 AAUP Bull. 49, 60-61 (1949).

27. *Academic Freedom and Tenure: The University of Illinois*, 49 AAUP Bull. 25 (1963).

28. The committee concluded that the standard used by the University of Illinois to dismiss Professor Koch was inappropriate. The "concept of 'irresponsibility,'" the committee explained, "is exceedingly vague. Any one of us can easily call to mind statements by our colleagues which might be termed by some as unrestrained, undignified, or lacking respect for the opinion of others. Any serious application of the standard would tend to eliminate or discourage any colorful or forceful utterance. More likely, . . . the standard would be reserved as a sanction only for expression of unorthodox opinion." *Id.* at 37. Professor Emerson subsequently addressed the issue in Thomas Emerson & David Haber, *Academic Freedom of the Faculty Member as Citizen*, 28 L. & Contemp. Probs. 525 (1963).

29. *Academic Freedom and Tenure in the Quest for National Security*, 42 AAUP Bull. 49, 58 (1956). The report was supplemented by Committee A in 1958. *A Statement of the Committee on Academic Freedom and Tenure Supplementary to the 1956 Report, "Academic Freedom and Tenure in the Quest for National Security,"* 44 AAUP Bull. 3 (1958). The 1958 supplement reiterated this standard. *Id.* at 8.

30. There was a spirited dissent by one committee member, Warren Taylor (English, Oberlin College); and several other members of Committee A either did not vote or did not participate in the consideration of the case.

31. *Academic Freedom and Tenure: The University of California at Los Angeles*, 57 AAUP Bull. 382, 397 (1971) (emphasis added).

32. The point is illustrated by the action of the administration of the University of Colorado in the matter of Professor Ward Churchill. Professor Churchill had spoken crudely and disparagingly of the victims of the 9/11 terror attack in New York. Calls for his summary removal were resisted by the administration, which nevertheless appointed a committee to determine whether Professor Churchill's published work comported with scholarly standards. The committee concluded that his work was seriously derelict in several regards. *Report of the Investigative Committee*

of the Standing Committee on Research Misconduct at the University of Colorado at Boulder concerning Allegations of Academic Misconduct against Professor Ward Churchill (2006), available at <http://www.colorado.edu/news/reports/churchill/download/WardChurchillReport.pdf>. The administration took the committee report as a statement of charges that, if proved, would warrant serious discipline. It presented these before the university's faculty hearing committee, to which proceeding Professor Churchill was a party. The committee sustained some of the charges but was divided over the sanction to recommend. The president recommended that Professor Churchill be dismissed, and he was. Churchill's dismissal was predicated not on his extramural speech but rather upon the professional incompetence of his research. It is clear, however, that inquiry into the quality of Churchill's research would not have occurred but for the controversy stirred by his extramural speech. At the time of this writing, Professor Churchill is pursuing a case against the university in the courts.

Chapter 7. Conclusion

1. In 1932, there were 931 colleges and universities in the United States, of which 434 were religiously affiliated. Malcolm Willey et al., *Depression Recovery and Higher Education* 10 (1937). In 2005, there were 314 "faith-related" institutions in a universe of 4,387 institutions of higher education. Religiously affiliated institutions now represent just over 7 percent of all institutions of higher education. *Chronicle of Higher Education: The Almanac of Higher Education, 2006-7*, at 35 (2006).

2. For sharply contrasting contemporary views on the applicability of these ideals to church-related institutions, compare Michael W. McConnell, *Academic Freedom in Religious Colleges and Universities, in Freedom and Tenure in the Academy* 303 (William Van Alstyne ed., 1993), with Judith Jarvis Thomson & Matthew W. Finkin, *Freedom and Church-Related Higher Education: A Reply to Professor McConnell, in Freedom and Tenure in the Academy, supra*, at 419. For modern decisions involving controversy over ecclesiastical authority, see, for example, *Academic*

Freedom and Tenure: Brigham Young University, Academe, Sept.-Oct. 1997, at 52, and *Academic Freedom and Tenure: The Catholic University of America*, Academe, Sept.-Oct. 1989, at 27.

3. A recent controversy at the University of Illinois is a good illustration of this danger. See *Report of the Chancellor's Advisory Committee on the Academy on Capitalism and Limited Government Fund* (2007), available at http://www.senate.uiuc.edu/aclgf_report_of_advisory_committee.pdf.

4. Derek Bok, *Universities in the Marketplace: The Commercialization of Higher Education* (2003); see also the sources cited in chapter 3, note 12.

5. See chapter 6, text accompanying note 4.

6. See chapter 6, text accompanying notes 23-25.

7. See chapter 4, text accompanying notes 45-47.

8. This force can reach even private universities. A notable example occurred in 1935 when Charles Walgreen, the eponymous owner of the drugstore chain, removed his niece from the University of Chicago because she told him of "Communist influences" in the faculty. The Hearst press quickly sensationalized the episode, and the Illinois Senate reacted by investigating subversive activities in "certain tax exempt colleges and universities" in the state, namely, the University of Chicago. See *Report of the Special Committee Authorized by Senate Resolution No. 33*, J. Senate (Ill.), June 26, 1935, at 1304. The university was exonerated, and Mr. Walgreen later made a donation to it, presumably as a gesture of reconciliation. (Mr. Walgreen's niece, it seems, had sought to pull her uncle's beard.) Damage was nevertheless inflicted on faculty members named in the process as well as on the university. The episode is recounted by John Boyer, *Academic Freedom and the Modern University: The Experience of the University of Chicago* (2002).

9. *Committee on Academic Freedom: Statement on the Case of Professor Louis Levine of the University of Montana*, 5 AAUP Bull. 13, 24 (1919); see also chapter 3, text accompanying note 29.

10. *Academic Freedom and Tenure at the Ohio State University*, 17 AAUP Bull. 443, 446 (1931); see also chapter 6, text accompanying notes 13-15.

11. *Academic Freedom and Tenure: University of Pittsburgh*,

21 AAUP Bull. 224, 240 (1935); see also chapter 4, text accompanying notes 25-26.

12. *Academic Freedom and Tenure: University of Pittsburgh*, *supra* note 11, at 240.

13. *Academic Freedom and Tenure: Rocky Mountain College*, 42 AAUP Bull. 292, 303-4 (1956). It is not unknown for faculty themselves to abet outside groups in their public efforts to politicize what ought to be a purely internal and professional debate among scholars. See Christopher Jencks & David Riesman, *The Academic Revolution* 18 n.14 (1968).

14. Butler engineered the dismissal of James McKeen Cattell, whom Butler loathed, on trumped-up charges of disloyalty in wartime, despite Cattell's twenty-six years of service. Michael Rosenthal, *Nicholas Miraculous: The Amazing Career of the Redoubtable Dr. Nicholas Murray Butler* 226-35 (2006); see also *Columbia University v. Professor Cattell*, 8 AAUP Bull. 21 (1922) (reprinting some of the epistolary exchanges between Cattell, Butler, and the board of trustees). Charles Beard consequently resigned in disgust from the Columbia History Department. The incident may profitably be compared with Butler's refusal, six years later, "to interfere with Columbia University's assistant professor of Latin because the professor is a local head of the Fascist movement." *Butler Won't Discipline Fascist Professor; Declares Columbia Is for Academic Freedom*, N.Y. Times, Apr. 9, 1923, at 1. Butler wrote the general secretary of the Italian Chamber of Commerce that "an individual whose personal acts tend to bring the university into contempt and to injure its influence may properly and without any departure from the highest university ideals be asked to carry on his work elsewhere. But to attempt to discipline a university teacher for his private or political opinions would be most unbecoming." *Id.*

15. Nicholas Murray Butler, *Academic Freedom*, 47 Educ. Rev. 291, 292, 294 (1914). Butler continued:

A gentleman measures his public utterance and bears himself with tolerance and kindness toward those who are otherwise minded. A gentleman understands that it is neither necessary nor expedient to teach to the young everything which the ex-

perience and reflection of an older man may have taught him to believe. A gentleman has some appreciation of historic values and a sense of proportion. *He knows how to use the rich gift of freedom without divesting himself of a high sense of responsibility for that use.* The universities of the world, and, in particular, the leading universities of the United States, offer abundant illustrations of scholars who hold views on fundamental questions that are quite at variance with those in authority about them and who are yet as secure and as contented in their tenure of academic office as it is possible for men to be. They enjoy academic freedom, but they enjoy it like gentlemen. This is the crux of the whole matter.

Id. at 294 (emphasis added).

16. *Report of the Commission on Academic Freedom and Tenure of the Association of American Colleges* (1922), reprinted in 18 AAUP Bull. 376 (1932) (emphasis added).

17. It is true that the 1940 *Statement* itself asserts that in the context of extramural speech, faculty "should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution." But appeals to standards of responsibility and restraint have not been confined to the context of extramural speech; nor did they begin with the 1940 *Statement*; nor have they abated after the 1940 *Statement* was authoritatively interpreted in 1970 to enact "the controlling principle . . . that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Extramural utterances rarely bear upon the faculty member's fitness for the position." This reinterpretation is discussed in detail in chapter 6.

18. *Academic Freedom and Tenure: Evansville College*, 35 AAUP Bull. 74, 102 (1949); see also chapter 6, text accompanying notes 23–25; chapter 4, text accompanying note 28.

19. *Academic Freedom and Tenure: Indiana State University*, 56 AAUP Bull. 52, 55 (1970); see also chapter 4, text accompanying notes 45–47.

20. *Academic Freedom and Tenure: Alabama Polytechnic Institute*, 44 AAUP Bull. 158, 161 (1958). In an editorial, the school newspaper opined, "The Board is in favor of as much free speech as the financial security of the institution will permit." *Id.* at 165.

21. Israel on Campus Coalition, *Academic Rights, Academic Responsibilities: A New Approach* 7 (2007), available at http://www.israelcc.org/about/updates/academic_rights_responsibilities.htm. The report explains: "Professors should stand by colleagues whose academic freedom has been violated, but it is not in their interest to stand up automatically for every teacher who complains. A faculty member who brings disrepute and outside scrutiny upon the academy does his colleagues no favors." *Id.* at 35 (emphasis added).

22. Fritz Machlup, *On Some Misconceptions Concerning Academic Freedom*, reprinted in *Academic Freedom and Tenure: A Handbook of the American Association of University Professors* 188, 191 (L. Joughin ed., 1969).

23. To require that faculty show "good judgment" and "restraint" as measured by the reactions of public opinion is to create a standard that is so vague that it cannot provide an ascertainable guide to speech or conduct. See, e.g., *Academic Freedom and Tenure: The University of South Florida*, 50 AAUP Bull. 44, 54 (1964).

24. Arthur O. Lovejoy, *Academic Freedom*, in *Encyclopedia of the Social Sciences* 384, 385 (Edwin R. A. Seligman & Alvin Johnson eds., 1930).

25. Machlup, *supra* note 22, at 188.

26. See John Henry Wigmore, *President's Report*, 2 AAUP Bull. 16 (1916).

From: Ilesanmi Adesida [REDACTED]
Sent: Thursday, July 31, 2014 6:44 PM
To: Phyllis Wise
Subject: Re: Fwd: University of Illinois Presidential Search video

Phyllis,

I agree, this place is messed up. In my opinion, the University does not need for a President. The Iowa system is a good model for Illinois. I am surprised at the lawyers! I thought that this would have gone to the Board. Well, we better get ready for the rain to fall. More controversy coming on.

Thanks for the well wishes on the vacation. Enjoy yours too and we will be waiting for what happens if the lawyers insist.

Ade

On Thu, Jul 31, 2014 at 6:18 AM, Phyllis Wise [REDACTED] wrote:
Ade,

I need to look at the video as well. The more boring and unprofessional this comes across, the harder it will be to get a president. I don't know how I feel about that...I think I still believe that a failed search is the best thing that could happen.

I am only sorry that Doug has gotten himself into this. I think he thought that since he could save the Chancellor's search, he could influence this one.

[REDACTED]

[REDACTED] It will be the beginning of a lawsuit, I am sure I will be deposed no matter who sends the letter. You may need to get ready as well.

Here is a draft of the letter that they composed for me to sign:

[REDACTED]

This place is so messed up.
Phyllis

PS Enjoy your vacation

On Thursday, July 31, 2014 12:42 AM, Ilesanmi Adesida <[REDACTED]> wrote:

Phyllis,

This is the feedback from [REDACTED] who left here in January to become the [REDACTED]
at [REDACTED] I have to go look at the video. Is there any way we can give some feedback?

Ade

From: [REDACTED]
Date: Wed, Jul 30, 2014 at 9:47 PM
Subject: University of Illinois Presidential Search video
To: Ilesanmi Adesida <[REDACTED]>

Ade, several of my colleagues here brought the video that Illinois is sending out, and on youtube, as a promotion for the presidential search. Ade, it is appalling, really. Very poorly made, the two co-chairs have whatever is the opposite of charisma, they are reading, dispassionately and boringly, from a script. It is such a turn-off, people are laughing at us. Sorry, I had to share with you what I hear and what I think of the video too. We deserve so much better than this video.

[REDACTED]
PS. Sorry I got your message late. I was indeed in [REDACTED] as you have guessed. Will update you over the weekend.

From: Nick Burbules [REDACTED] <[REDACTED]>
Sent: Wednesday, August 06, 2014 10:24 AM
To: Phyllis Wise
Subject: Re: Really interesting

Thanks Phyllis,

Glad to help. We face a lot of challenges and sometimes it feels as if the institution is purposely undermining its own ability to move forward. But I continue to believe (hope) that we are an institution based on reason, and that reasonable positions in the end will win out.

Nick

On Wed, Aug 6, 2014 at 9:41 AM, Phyllis Wise [REDACTED] wrote:
Nick,

I've come to expect this kind of courage of you and Joyce (and a few others) but I did not expect it from Cary. Reading the whole article in Inside Higher Ed confirms for me that we did the right thing, though I know I am in for a lot of criticism and a law suit. I worry about this when we are dealing with the JK issue, unionization, and also the COM. Everything gets put into the mix of the administration's interactions with the faculty. I cannot overemphasize how much I respect shared governance and particularly when I appreciate what an amazing faculty I am working with. I truly mean it when I say it is an honor and privilege.

Anyway, thanks for your continuing work on the very important issue of freedom of speech and academic freedom and all of its ramifications. But even more thank you for advising Ade and me on so many other important issues that we are dealing with. I am truly deeply indebted!

Best,
Phyllis

Sent from my iPad

On Aug 6, 2014, at 10:03 AM, Nick Burbules [REDACTED] wrote:

Joyce and I have been working on a senate resolution on this. Cary's comments aside, AAUP's own guidelines make quite clear that academic freedom is not the right to say whatever one wants, and that standards of professional ethics and professional conduct also apply.

THAT's the issue here - not silencing criticism of Israel, etc.

On Wed, Aug 6, 2014 at 8:59 AM, Phyllis M Wise [REDACTED] wrote:
Great - and thanks for supporting him. As you can see from the letters that follow the article, it took some courage.

Sent from my iPhone

On Aug 6, 2014, at 9:55 AM, Nick Burbules [REDACTED] wrote:

Thanks, I have already seen that, and wrote to Cary expressing my support.

And so it begins.

On Wed, Aug 6, 2014 at 8:45 AM, Phyllis Wise [REDACTED] wrote:

Check out Inside Higher Ed...

On Tuesday, August 5, 2014 10:21 PM, Nick Burbules [REDACTED] wrote:

The pdf is a copy of the letter UT sent to AAUP. It contains a list of questions about AAUP review processes, asking AAUP to respond with information and justifications.

It is a decidedly skeptical take on AAUP's authority to conduct these reviews and to "censure" campuses that don't suit their standards.

My own take is that AAUP's big push into union organizing has undermined their credibility as an impartial advocate for academic principles and procedures.

And I think that is very sad. But it might become relevant to our situation.

ps. I see no new postings to Steven Salaita's Twitter feed since Saturday.

On Tue, Aug 5, 2014 at 8:29 PM, Phyllis Wise [REDACTED] wrote:

Indeed, Nick, I had not known any criticism of the AAUP like this. I wasn't able to open the second url that you included. But the article in the Chronicle is worth knowing about. Thanks for sending.

Phyllis

On Tuesday, August 5, 2014 8:13 AM, Nick Burbules

<[REDACTED]> wrote:

<http://chronicle.com/article/An-AAUP-Target-Turns-the/148139/>

Here's the letter:

<http://chronicle.com/items/biz/pdf/AAUP-letter-md-anderson-compressed.pdf>

From: Ilesanmi Adesida [REDACTED] n>
Sent: Thursday, August 07, 2014 9:02 AM
To: Phyllis Wise
Subject: David

Phyllis,

I have been following David's issue and did not want to bud in making suggestions to the lawyers. I am hoping that they can reach an agreement today. The case is taking a life of its own. I wonder who have Chronicles the letter! Their article today shows that they saw a copy. Anyway, I support making some restitution to him. This sum should be [REDACTED] This will come out to about [REDACTED] Not sure whether it is too small!

G
Ade

From: Nick Burbules [REDACTED] <[REDACTED]>
Sent: Wednesday, August 13, 2014 4:16 PM
To: Phyllis Wise
Subject: Re: A few thoughts

Please call whenever you'd like.

Nick

On Wed, Aug 13, 2014 at 3:42 PM, Phyllis Wise [REDACTED] wrote:
Nick,

Thanks for your long email filled with great advice. Ade and I really look forward to talking with you and with Joyce on Friday. I am free late this evening (I should get home around 8:30) to catch you up on some of this.

Phyllis

On Wednesday, August 13, 2014 12:40 PM, Nick Burbules <[REDACTED]> wrote:

Hi Phyllis

A few thoughts as this Salaita business spins more and more out of control.

I look forward to the discussion Friday.

Before I jot down these ideas, I just have to say how furious and sickened I am by the situation. I am so angry with the people who knowingly brought this about, and the other people who didn't do their job in realizing what they were subjecting the campus to, and putting a stop to it before it reached this point.

1. There is no way to reverse the decision now. You've been presented with an ugly situation in which whichever way you go, some broad and important constituency is going to be furious. In a case like that, all you can do is what you think is the right thing.
2. When the time is right, you might say this publicly: That you are convinced that what you are doing is in the university's best interests. People are sure to disagree, but this decision was not reached lightly and without consultation and serious consideration of the consequences.
3. You can't say this, but you can't give in to bullying and blackmail. Bringing this guy in now, and empowering the groups who will feel that they forced you into reversing the decision, would only guarantee year after year of further problems along these lines.
4. Externally, the petitions and boycotts are clearly driven by people who are getting the Readers Digest version of this story (young Palestinian scholar fired by U of I because of his position on

Israel). Some consciously promote that distortion - others are just lazy and easily swayed by sound bites. But somehow it needs to be made clear that these were not the reasons.

5. While CFA seems energized to think that this is the issue they will drive toward tenured faculty unionization, from all that I can see this has divided them internally. I see a noticeable absence of certain names among their leadership and their most fervent members in their public posture around this issue. I can only imagine what some of their internal debates have been like.

6. In some way, it needs to be made clear that - given the awkward time constraints - there was consultation with faculty leaders (and others) before making this decision. Speaking only for myself, I am happy to take the heat of publicly saying I was asked, and supported the decision. Others can speak for themselves

7. Joyce and I have submitted a piece to the News Gazette that tries to clear up some of the misconceptions around this issue. I think they will print it, perhaps this weekend, And we are drafting an item for the next SEC agenda.

Nick

To: Phyllis Wise
From: Nick Burbules
Subject: NG piece
Sent: Wed Aug 13 21:50:06 2014
Importance: Normal

I think it's going to be published, so there isn't any reason not to send this to you now.

Nick

GUEST COMMENTARY

Joyce Tolliver
Nicholas C. Burbules

The sides are lining up over the University's apparent decision not to seek Board of Trustees approval for Dr. Steven Salaita's tenured faculty position. Since neither the university nor Dr. Salaita has spoken publicly about the issue, there is much we do not know. The national AAUP has rightly decided not to take a final position until all the facts are known.

However, the Illinois branch of the AAUP did weigh in, releasing a statement asserting that Dr. Salaita's recent comments, "while strident and vulgar," were protected by academic freedom and hence that it was not defensible for the University to withhold Dr. Salaita's appointment. The Campus Faculty Association was quick to attack the campus administration's decision. The faculty union up at UIC has also jumped into the fray, criticizing our campus and calling for a national investigation.

There are two aspects of this public debate that are based on questionable assumptions. The first is the frequent assertion that Dr. Salaita's position offer was terminated because of his stance on the Palestinian-Israeli conflict. There is, at this point, no evidence that this is the case: many faculty hold similar views on the Middle East, and no one has suggested that they are not entitled to engage in open debate over this controversy.

The real issue is with the form and substance of Dr. Salaita's comments. He has made numerous public statements over the summer that are not just "strident and vulgar," but are, in the view of many people, incendiary and anti-Semitic. Of greatest concern to an academic community is that many of his comments preclude any possibility of dialogue, disagreement, or reasoned examination. This is not what one would expect from a thoughtful, reflective teacher and scholar.

The question is not whether Dr. Salaita has a First Amendment right to make such comments – of course he does. It is whether, in light of this new information, the university has the right to choose not to proceed with hiring someone who speaks and writes that way in public. There is a serious policy question here of how to manage a situation in which new and damaging information comes to light about a prospective hire after an initial letter of offer is sent, but before the beginning of the appointment period and before final Board approval.

At Virginia Tech, his previous institution, the university chose to publicly disavow some of his extreme comments, in order to protect its own reputation. And apparently they have made no effort to retain Dr. Salaita after he received word that Board approval would not be sought for his appointment at Illinois.

The other questionable assumption of the current debate is that the University's action violates Dr. Salaita's academic freedom. But the principle of academic freedom is not an absolute, open-ended license; the AAUP's own statement on principles of academic freedom emphasizes that faculty are also bound by the standards of professional ethics: "As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, [and] should show respect for the opinions of others . . ." Dr. Salaita's comments raise legitimate questions about the limits of academic freedom.

An honest debate about this case would engage these serious and difficult questions, instead of invoking the familiar frame of faculty victims being silenced by evil administrators. That framing might serve other political agendas, but it does not serve the campus or the wider academic profession well – and it does not fit the facts of this case as we know them, so far.

From: Phyllis Wise [REDACTED]
Sent: Thursday, August 14, 2014 6:46 AM
To: Kaler Robin Neal; Rice Scott; Adesida Ilesanmi
Subject: Fwd: From the Chicago Tribune

Very interesting points.

Sent from my iPad

Begin forwarded message:

From: Nick Burbule [REDACTED]
Date: August 13, 2014 at 11:24:29 PM CDT
To: Phyllis Wise [REDACTED]
Subject: From the Chicago Tribune

<http://www.chicagotribune.com/news/opinion/commentary/ct-speech-steven-lubet-salaita-university-illinois-20140814-story.html>

Controversial scholar Steven Salaita — who has been most benignly described as "deeply critical of Israel" — has been fired or "non-hired" by the University of Illinois, depending on which news source you believe. In either case, it appears Salaita's numerous tweets, which have included venomous comments about Israelis and Jews, played a role in his job loss. Thus, he is either an avatar of academic freedom or the victim of his own extremism, again depending on your point of reference. Needless to say, the situation is not quite that simple. There are actually three distinct principles involved, and they do not necessarily lead to a single neat conclusion.

To understand the Salaita contretemps, we must separately consider academics, law and politics.

Salaita's strongest case can be made in the name of academic freedom. Ever since the McCarthy era, when professors were required to sign loyalty oaths as a condition of employment, it has been an article of faith among scholars that political considerations should play no role in academic appointments. It was therefore predictable that the Association of American University Professors would issue a statement defending Salaita's right to tweet his "views without fear of retaliation, even where such views are expressed in a manner that others might find offensive or repugnant." I am among those who find Salaita's tweets loathsome and incendiary, and not merely outspoken — more on that below — but, like nearly all academics, I do not think his political opinions should affect his job security at his university.

Salaita's legal position, however, is weaker than his academic freedom claims. According to press reports, Salaita's appointment had never been endorsed by the University of Illinois at Urbana-Champaign chancellor, Phyllis Wise, who has declined to submit his name to the board of trustees for official approval. Wise has great discretion when it comes to hiring professors — as opposed to firing them — and there is no rule that prevents her from considering Salaita's history of vulgar and intemperate outbursts. That may seem like a technicality, but law is technical by its very nature. Whatever he might have been told during the hiring process, it is virtually certain that Salaita was informed in writing that no appointment was final without the approval of the chancellor and trustees.

To date, both Salaita and the university have maintained absolute silence about the case. It would be unusual for a university to comment publicly on a personnel matter, but such reserve is uncharacteristic of Salaita, who has never been known for reticence. This strongly suggests that a deal is in the works, probably involving a buyout and mutual covenants of confidentiality and non-disparagement. Whatever his appeals to scholarly high ground, Salaita's legal position is shaky. So don't be surprised if he accepts the money and cuts his losses.

That brings us to the political dimension, where Salaita's position is weakest of all. Many of Salaita's supporters have been unfortunately eager to obscure the true nature of his tweets, usually by calling him a passionate supporter of Palestinian rights who reacted strongly to recent events in Gaza. That does not begin to tell the whole story. Salaita's demeaning comments about Israelis and Jews predate the current fighting, and they go far beyond the bounds of civil, or even passionate, discourse. For example, Salaita celebrated the kidnapping (and subsequent murder) of three Israeli teenagers and proudly called for more such crimes to be committed: "You may be too refined to say it, but I'm not: I wish all the (expletive) West Bank settlers would go missing." He once retweeted a vile suggestion that journalist Jeffrey Goldberg ought to get "the pointy end of a shiv."

Salaita also traffics in anti-Semitism, having tweeted: "Zionists: transforming 'anti-semitism' from something horrible into something honorable since 1948." It should go without saying that racism — toward any group, for any reason — is never honorable, despite Salaita's own indulgence of bigotry. Even bigots, of course, are entitled to academic freedom, but Salaita's supporters have been regrettably disingenuous. A committee of the Illinois AAUP, for example, argued that Salaita had merely made "an impassioned plea to end the violence currently taking place in the Middle East." This is manifestly untrue. Salaita has not called for an end to violence against Israelis. Quite the contrary, he has reveled in it.

I worked with the American Civil Liberties Union on the Nazis-in-Skokie case in the 1970s, and I would gladly do so again. It is always rewarding to defend free speech, but it is also important to be candid about the speech we are defending — which is why the ACLU never soft-pedaled the Nazis as merely passionate critics of international banking.

Some of Salaita's tweets have been inexcusably violent and racist. That may not disqualify him from teaching college students, but let's not be naive about his hateful message.

Steven Lubet is a law professor at Northwestern University. His most recent book is "John Brown's Spy: The Adventurous Life and Tragic Confession of John E. Cook."

From: Ilesanmi Adesida [REDACTED]
Sent: Thursday, August 14, 2014 7:36 AM
To: Phyllis Wise
Cc: Kaler Robin Neal; Rice Scott
Subject: Re: From the Chicago Tribune

Really interesting in separating out all the interconnected issues.

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To date, both Salaita and the university have maintained absolute silence about the case. It would be unusual for a university to comment publicly on a personnel matter, but such reserve is uncharacteristic of Salaita, who has never been known for reticence. This strongly suggests that a deal is in the works, probably involving a buyout and mutual covenants of confidentiality and non-disparagement. Whatever his appeals to scholarly high ground, Salaita's legal position is shaky. So don't be surprised if he accepts the money and cuts his losses.

That brings us to the political dimension, where Salaita's position is weakest of all. Many of Salaita's supporters have been unfortunately eager to obscure the true nature of his tweets, usually by calling him a passionate supporter of Palestinian rights who reacted strongly to recent events in Gaza. That does not begin to tell the whole story. Salaita's demeaning comments about Israelis and Jews predate the current fighting, and they go far beyond the bounds of civil, or even passionate, discourse. For example, Salaita celebrated the kidnapping (and subsequent murder) of three Israeli teenagers and proudly called for more such crimes to be committed: "You may be too refined to say it, but I'm not: I wish all the (expletive) West Bank settlers would go missing." He once retweeted a vile suggestion that journalist Jeffrey Goldberg ought to get "the pointy end of a shiv."

Salaita also traffics in anti-Semitism, having tweeted: "Zionists: transforming 'anti-semitism' from something horrible into something honorable since 1948." It should go without saying that racism — toward any group, for any reason — is never honorable, despite Salaita's own indulgence of bigotry. Even bigots, of course, are entitled to academic freedom, but Salaita's supporters have been regrettably disingenuous. A committee of the Illinois AAUP, for example, argued that Salaita had merely made "an impassioned plea to end the violence currently taking place in the Middle East." This is manifestly untrue. Salaita has not called for an end to violence against Israelis. Quite the contrary, he has reveled in it.

I worked with the American Civil Liberties Union on the Nazis-in-Skokie case in the 1970s, and I would gladly do so again. It is always rewarding to defend free speech, but it is also important to be candid about the speech we are defending — which is why the ACLU never soft-pedaled the Nazis as merely passionate critics of international banking.

Some of Salaita's tweets have been inexcusably violent and racist. That may not disqualify him from teaching college students, but let's not be naive about his hateful message.

Steven Lubet is a law professor at Northwestern University. His most recent book is "John Brown's Spy: The Adventurous Life and Tragic Confession of John E. Cook."

From: Nick Burbules [REDACTED]
Sent: Friday, August 15, 2014 11:06 PM
To: Phyllis Wise
Cc: Ilesanmi Adesida
Subject: Re: Brian's letter, with attachments

Yes, this is just the passage that Joyce and I quote in our News Gazette piece, coming out on Sunday.

What part of "at all times" do people have trouble parsing?

Nick

On Fri, Aug 15, 2014 at 10:34 PM, Phyllis Wise <[REDACTED]> wrote:
the 1940 AAUP statement of principles on academic freedom and tenure is fascinating. To quote point 3 under Academic Freedom: College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, *but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.*

The italics are mine.

On Friday, August 15, 2014 3:36 PM, Ilesanmi Adesida <[REDACTED]> wrote:

Ditto. I have to check whether it has become a matter of routine that we send all the accompanying information.

Ade

On Fri, Aug 15, 2014 at 2:30 PM, Phyllis Wise <[REDACTED]> wrote:
thanks so much for our conversation today and for this email.

On Friday, August 15, 2014 9:58 AM, Nick Burbules <[REDACTED]> wrote:

Here you go. As i said, I don't know if attaching these documents is standard practice or not

<http://www.news-gazette.com/pdf/2014-08-13/ui-salaita-correspondence.html>

From: Nick Burbules [REDACTED]
Sent: Saturday, August 16, 2014 5:00 PM
To: Ilesanmi Adesida
Cc: Phyllis Wise; Joyce Tolliver
Subject: Re: News

Thanks Ade,

That's a safe assumption, I would think.

Of course, they have every right to do this. But it does make you wonder how much damage they are willing to do to the campus to get what they want.

Nick

On Sat, Aug 16, 2014 at 4:57 PM, Ilesanmi Adesida [REDACTED] > wrote:
Nick and Joyce,

Thanks for the info. We found out that some faculty are going around the campus canvassing others to sign a petition letter. I don't know whether this is the same group as the folks leading the boycott movement.

Again, thanks.

Ade

On Sat, Aug 16, 2014 at 4:51 PM, Nick Burbules [REDACTED] wrote:
Hi Phyllis, Ade,

We learned today that some faculty on this campus (who may or may not be part of CFA) are actively working with the boycott against UIUC.

We added this section to our News-Gazette piece, but they might not change it at the last minute.

In any event, you ought to know where, apparently, some people's loyalties lie:

The Campus Faculty Association was quick to attack the campus administration's decision, and a petition is now being circulated calling for a national boycott of UIUC "in solidarity with the Campus Faculty Association of the University of Illinois at Urbana-Champaign (UIUC) . . . and in consultation with concerned faculty members at UIUC."

[https://docs.google.com/forms/d/1_oGbCNTx7lcvYzQP_kDEZbfclDdu5-GU_HlfcUKfIGQ/viewform?fbzx=1489906076045663650]

From: Robin Kaler [REDACTED] >
Sent: Saturday, August 16, 2014 8:16 PM
To: Phyllis M Wise
Cc: Rice Scott; Adesida Ilesanmi
Subject: Re: News

Cut off your nose....

Sent from my iPhone

On Aug 16, 2014, at 5:09 PM, Phyllis M Wise [REDACTED] > wrote:

I want to bring you into this loop.

Sent from my iPhone

Begin forwarded message:

From: Nick Burbules [REDACTED]
Date: August 16, 2014 at 5:05:55 PM CDT
To: Phyllis M Wise [REDACTED] >
Cc: Ilesanmi Adesida [REDACTED]; Joyce Tolliver [REDACTED]
Subject: Re: News

Logically (if that word even fits), this is a very strange strategy,

Scholars boycotting this campus - if they follow through with their threat - will only harm certain parts of campus. Apparently some of these people are saying they won't write recommendation letters, tenure reviews, etc, for Illinois faculty. This is an enormous price for our faculty to pay in terms of alienating some of the leading scholars in their field. Why would they ENCOURAGE it?

I know they think the Salaita decision is a terrible thing. But all of this only makes it worse -- and isn't going to change the basic issue they are upset about.

On Sat, Aug 16, 2014 at 4:59 PM, Phyllis M Wise [REDACTED] wrote:

I hope that most people won't follow this recommendation.

Sent from my iPhone

On Aug 16, 2014, at 4:57 PM, Ilesanmi Adesida [REDACTED] > wrote:

Nick and Joyce,

Thanks for the info. We found out that some faculty are going around the campus canvassing others to sign a petition letter. I don't know whether this is the same group as the folks leading the boycott movement.

Again, thanks.

Ade

On Sat, Aug 16, 2014 at 4:51 PM, Nick Burbules

[REDACTED] wrote:

Hi Phyllis, Ade,

We learned today that some faculty on this campus (who may or may not be part of CFA) are actively working with the boycott against UIUC.

We added this section to our News-Gazette piece, but they might not change it at the last minute.

In any event, you ought to know where, apparently, some people's loyalties lie:

The Campus Faculty Association was quick to attack the campus administration's decision, and a petition is now being circulated calling for a national boycott of UIUC "in solidarity with the Campus Faculty Association of the University of Illinois at Urbana-Champaign (UIUC) . . . and in consultation with concerned faculty members at UIUC." [https://docs.google.com/forms/d/1_oGbCNTx7lcvYzQP_kDEZbfclDdu5-GU_HlfCUKfIGQ/viewform?fbzx=1489906076045663650]

From: Phyllis Wise [REDACTED]
Sent: Sunday, August 17, 2014 2:16 PM
To: Nick Burbules; Joyce Tolliver
Cc: Ilesanmi Adesida
Subject: thanks one more time!

Dear Nick and Joyce,

Thank you so much for spending the time to compose such a well reasoned op-ed. I just wish that you (and we) did not have to spend time on this. But since we do, it is so reassuring to know that I/we have the support of respected faculty like you. If a vote of censure or no confidence comes up at the SEC or at the Academic Senate meeting, I hope it will not just be you who speak up. I don't want a counter petition to get started since it would be so divisive. But if the CFA really believes that a boycott is supported by the majority or that it will change the decision, it would not be good. As long as the other side stands at the sidelines in silence, they could get that impression.

Thanks again for your support,
Phyllis

From: Ilesanmi Adesida [REDACTED]
Sent: Monday, August 18, 2014 1:14 AM
To: Nick Burbules
Cc: Phyllis Wise; Joyce Tolliver
Subject: Re: thanks one more time!

Nick, Joyce,

Thank you for the well-reasoned and crafted op-ed. There was also an article by Jim Dey. He is focussed on these issues.

For our campus, there is a large silent majority that finds it hard to speak up. I am hoping that they will find their voice(s) if things move to the Senate. It will require all Senators to show up.

Thanks for the quote from Yeats' Second Coming. I do hope that the center does hold and nothing falls apart. I spent my youth in high school studying Yeats and other great English poets. So much for engineering!

Thanks.

Ade

I read the

On Sun, Aug 17, 2014 at 3:41 PM, Nick Burbules [REDACTED] wrote:

On Sun, Aug 17, 2014 at 2:15 PM, Phyllis Wise [REDACTED] wrote:
Dear Nick and Joyce,

Thank you so much for spending the time to compose such a well reasoned op-ed.

Thanks, Phyllis,

The article is linked now: <http://www.news-gazette.com/opinion/guest-commentary/2014-08-17/salaita-case-calls-honest-debate.html>

I just wish that you (and we) did not have to spend time on this.

We received a deeply moving thank you from the child of a Holocaust survivor, and it will sustain us if (or when) we start getting kicked around.

But since we do, it is so reassuring to know that I/we have the support of respected faculty like you. If a vote of censure or no confidence comes up at the SEC or at the Academic Senate meeting, I hope it will not just be you who speak up.

I do not think that will happen (at least right now). What I expect is that some will bring a resolution to SEC that basically calls for Salaita's reinstatement. We'll see what happens to that resolution - and whatever other resolution Joyce and I or others might bring (we're talking about it).

FWIW, apparently the prevailing campus narrative is that you were forced to do this by the Board - so I don't see a lot of hostility directed at you personally.

What I don't know is what happens if such a resolution/vote/petition goes forward and you say No.

Would there be a call then for a vote of no confidence? I don't know - but I seriously doubt it would pass.

The sooner an agreement is made with the lawyers, the more steam it takes out of this whole debate.

I don't want a counter petition to get started since it would be so divisive. But if the CFA really believes that a boycott is supported by the majority or that it will change the decision, it would not be good. As long as the other side stands at the sidelines in silence, they could get that impression.

I continue to believe that a lot of people (I think a majority) do not want this guy, but for various reasons are afraid or unwilling to say so, or worried that saying so (let's say they are Jewish) could backfire and reinforce the narrative that Salaita is a victim.

What does Yeats say? "The best lack all conviction, while the worst Are full of passionate intensity."

Nick

Thanks again for your support,
Phyllis

From: Joyce Tolliver [REDACTED] >
Sent: Wednesday, August 20, 2014 9:00 PM
To: Phyllis Wise; I Adesida
Cc: Roy Campbell; Nick Burbules
Subject: draft to forward Thursday Aug. 21
Attachments: SEC for Aug25 process.docx

Dear Phyllis and Ade,

Roy, Nick, and I discussed the attached draft this afternoon and we would like SEC to consider it at Monday's meeting. Unfortunately, we must get agenda items to Jenny by tomorrow at 3pm, so I hope you can give it a quick look and contact Roy or me if you see red flags.

As you'll see, the resolution calls for the formation of a committee to propose a consultation process for cases when a unit's hiring recommendation seems unacceptable to the Office of the Provost or Chancellor. Our hope is that the codification of a process will provide helpful guidance should such an unusual case occur again in the future.

As always, I'm happy to discuss, as I'm sure Roy is also.

Joyce

--

Joyce Tolliver

From: Ilesanmi Adesida [REDACTED]
Sent: Thursday, August 21, 2014 9:11 AM
To: Phyllis Wise
Cc: Joyce Tolliver; Roy Campbell; Nick Burbules
Subject: Re: draft to forward Thursday Aug. 21

Dear Joyce and Nick,

Thanks for the work done. As the Chancellor said, consultation with Deans who in turn consults with departments is the protocol when issues of problematic promotions arise. In terms of appointment or recruitment, that should be the first order of business. Consultation with the proposed Senate committee should be the last process if required and should be very much advisory.

Ade

On Wed, Aug 20, 2014 at 10:41 PM, Phyllis Wise [REDACTED] > wrote:
Dear Joyce,

I should let Ade comment on this. In the past, when there has been any question about the promotion of any faculty member, he has returned it to the dean for further explanation. In some cases, the provost has over-ruled the recommendation of the dean; in other cases, new information has convinced the Provost that the promotion is justified. I am not aware of any case in which the Provost has over-ruled the recommendation for the recruitment of a faculty member, but I suspect that the same process would be followed.

Phyllis

On Wednesday, August 20, 2014 9:01 PM, Joyce Tolliver <[REDACTED]> wrote:

Dear Phyllis and Ade,

Roy, Nick, and I discussed the attached draft this afternoon and we would like SEC to consider it at Monday's meeting. Unfortunately, we must get agenda items to Jenny by tomorrow at 3pm, so I hope you can give it a quick look and contact Roy or me if you see red flags.

As you'll see, the resolution calls for the formation of a committee to propose a consultation process for cases when a unit's hiring recommendation seems unacceptable to the Office of the Provost or Chancellor. Our hope is that the codification of a process will provide helpful guidance should such an unusual case occur again in the future.

As always, I'm happy to discuss, as I'm sure Roy is also.

Joyce

--

Joyce Tolliver

From: Phyllis Wise <[REDACTED]>
Sent: Wednesday, August 20, 2014 10:42 PM
To: Joyce Tolliver; I Adesida
Cc: Roy Campbell; Nick Burbules
Subject: Re: draft to forward Thursday Aug. 21

Dear Joyce,

I should let Ade comment on this. In the past, when there has been any question about the promotion of any faculty member, he has returned it to the dean for further explanation. In some cases, the provost has over-ruled the recommendation of the dean; in other cases, new information has convinced the Provost that the promotion is justified. I am not aware of any case in which the Provost has over-ruled the recommendation for the recruitment of a faculty member, but I suspect that the same process would be followed.

Phyllis

On Wednesday, August 20, 2014 9:01 PM, Joyce Tolliver [REDACTED] wrote:

Dear Phyllis and Ade,

Roy, Nick, and I discussed the attached draft this afternoon and we would like SEC to consider it at Monday's meeting. Unfortunately, we must get agenda items to Jenny by tomorrow at 3pm, so I hope you can give it a quick look and contact Roy or me if you see red flags.

As you'll see, the resolution calls for the formation of a committee to propose a consultation process for cases when a unit's hiring recommendation seems unacceptable to the Office of the Provost or Chancellor. Our hope is that the codification of a process will provide helpful guidance should such an unusual case occur again in the future.

As always, I'm happy to discuss, as I'm sure Roy is also.

Joyce

--

Joyce Tolliver

From: Nick Burbules <[REDACTED]>
Sent: Thursday, August 21, 2014 9:20 AM
To: Phyllis Wise
Cc: Joyce Tolliver; Ilesanmi Adesida
Subject: Re: AAUP on academic boycotts

Thanks Phyllis,

So how long will it be before AAUP comes out with a statement condemning the boycott of the U of I?

(I'm not holding my breath)

On Thu, Aug 21, 2014 at 7:49 AM, Phyllis Wise <[REDACTED]> wrote:
Joyce and Nick.

You might be interested in this: at [On Academic Boycotts | AAUP](#).

On Academic Boycotts | AAUP

A report discussing academic boycotts and relevant AAUP policies, and making recommendations.

[View on www.aaup.org](#)

Preview by Yahoo

One of the deans, brought it to our attention.

Phyllis

From: Andreas Cangellaris <[REDACTED]>
Sent: Thursday, August 21, 2014 12:48 PM
To: Ilesanmi Adesida
Subject: Re: supporting your decision

I understand. Let's talk later in the day today. What time should I call you?

Sent from my iPhone

On Aug 21, 2014, at 9:13 AM, Ilesanmi Adesida <[REDACTED]> wrote:

Andreas,

I know that there are many voices that resonate with [REDACTED]. We received similar email from [REDACTED]. The issue is that there is no resonance similar to what the "No" people are saying. Let's talk.
Welcome back.

Ade

On Thu, Aug 21, 2014 at 6:52 AM, Andreas Cangellaris <[REDACTED]> wrote:
Ade,

As you can imagine, there are many voices -- not only in Engineering but throughout campus -- that resonate with [REDACTED].

I could pull them together to help amplify the message; however, I need input from you before deciding how best to do it.

- Andreas

Sent from my iPhone

Begin forwarded message:

From: "Wise, Phyllis M" <pmwise@illinois.edu>
Date: August 20, 2014 at 11:53:54 PM CDT
To: [REDACTED]
Cc: "Adesida, Ilesanmi" <iadesida@illinois.edu>, "Cangellaris, Andreas C" <cangella@illinois.edu>
Subject: RE: supporting your decision

Dear [REDACTED]

Thank you very much for letting me know that you have been approached and how you have handled these requests. I really appreciate your support.

Best,

Phyllis

From: [REDACTED]
Sent: Wednesday, August 20, 2014 5:59 PM
To: Wise, Phyllis M
Subject: supporting your decision

Dear Phyllis,

I have been asked to sign a letter requesting you to change your decision on Steven Salaita and have been approached by other groups seeking my endorsement of his right to academic freedom. Although I hold those principles in high esteem, as we all do, I think there are other considerations of respectful behavior, decency, and inclusiveness that trump these rights and that we as a campus need to demand from all of our faculty, staff, and students. His actions grossly violated those basic expectations. There is no place for that at UIUC and I fully support your decision to terminate his appointment. I am in general not a very political person but I wanted you know that many of us here see it as you do.

Thank you for your leadership in the face of a difficult situation.

[REDACTED]

[REDACTED]



From: Joyce Tolliver <[REDACTED]>
Sent: Friday, August 22, 2014 11:12 AM
To: Nick Burbules; Roy Campbell; I Adesida
Subject: Fwd: statement

Friends, FYI.

----- Forwarded message -----

From: Joyce Tolliver <[REDACTED]>
Date: Fri, Aug 22, 2014 at 11:10 AM
Subject: statement
To: Phyllis Wise <[REDACTED]>

Phyllis, I just wanted to add a bit to the formal thanks I just sent you for sharing today's statement.

This statement puts the focus exactly where it belongs: where we draw the line between the controversial and the abusive, a line that our commitment to academic freedom **REQUIRES** us to draw if we accept the premise that abusive expression undermines one's professional competence.

Perhaps more importantly, this is a beautifully expressed affirmation of the core principle of mutual respect that the Academy is based on.

I am grateful to you for sharing, and grateful to you for making this statement on behalf of the entire University.

Joyce

--
Joyce Tolliver

--
Joyce Tolliver

From: Joyce Tolliver
Sent: Saturday, August 23, 2014 12:01 PM
To: Donald Chambers
Subject: statutes and general rules link

<http://www.bot.uillinois.edu/governance>

--

Joyce Tolliver

From: Joyce Tolliver [REDACTED]
Sent: Sunday, August 24, 2014 11:33 PM
To: I Adesida; Phyllis Wise
Cc: Roy Campbell
Subject: Fwd: revised draft for Monday
Attachments: SEC for Aug25 process_sat_11pm.docx

Ade, just in case you have not yet seen this revised draft of the proposal we discussed on Thursday. We plan to distribute copies at the SEC meeting to core SEC members.

If you see any red flags, of course, please let us know.

best
Joyce

----- Forwarded message -----

From: Joyce Tolliver [REDACTED]
Date: Sat, Aug 23, 2014 at 11:08 PM
Subject: revised draft for Monday
To: "Miller, Gay Y" <gymiller@illinois.edu>, Nick Burbules [REDACTED], Kim Graber <kgrab@illinois.edu>

Thanks, everyone, for your very helpful comments.
Here is another revised version.

Barring new comments or suggestions, Roy, could you share this with Ade and Phyllis before the meeting?

thanks

Joyce

--
Joyce Tolliver

--
Joyce Tolliver

From: Ilesanmi Adesida [REDACTED]
Sent: Monday, August 25, 2014 12:46 AM
To: menah pratt
Subject: Re: were you aware of the student protest?

Not really. I figure that something would happen because there were students at the BoT meeting on Friday. They had to leave because the BoT was in executive session. They seem to have posted something on face book when they sat at the door to the conference room trying to listen to the proceedings through the door!

This is getting nasty.

On Sun, Aug 24, 2014 at 9:02 PM, menah pratt <[REDACTED]> wrote:

From: Ilesanmi Adesida [REDACTED]
Sent: Monday, August 25, 2014 12:51 AM
To: Joyce Tolliver
Cc: Phyllis Wise; Roy Campbell
Subject: Re: revised draft for Monday

Sorry, I was in Chicago attending to family all day Saturday and most of Sunday. Just catching up with emails. This is fine, but my sincere hope is that things will be worked out thoroughly before appointments are passed to the Office of the Provost in the future.

On Sun, Aug 24, 2014 at 11:33 PM, Joyce Tolliver [REDACTED] wrote:
Ade, just in case you have not yet seen this revised draft of the proposal we discussed on Thursday. We plan to distribute copies at the SEC meeting to core SEC members.

If you see any red flags, of course, please let us know.

best
Joyce

----- Forwarded message -----

From: Joyce Tolliver <[REDACTED]>
Date: Sat, Aug 23, 2014 at 11:08 PM
Subject: revised draft for Monday
To: "Miller, Gay Y" <gymiller@illinois.edu>, Nick Burbules <[REDACTED]>, Kim Graber <kgrab@illinois.edu>

Thanks, everyone, for your very helpful comments.
Here is another revised version.

Barring new comments or suggestions, Roy, could you share this with Ade and Phyllis before the meeting?

thanks

Joyce

--
Joyce Tolliver

--

From: [REDACTED]
Sent: Tuesday, August 26, 2014 4:35 PM
To: Habeeb Habeeb
Cc: [REDACTED]
Subject: Re: Draft letter to the editor re: Chancellor Wise

Hi Habeeb:

I'll work on this tonight as soon as I get home.

Thanks,
r

----- Original Message -----

From: "Habeeb Habeeb" <habeeb@bpcinc.com>
To: [REDACTED], [REDACTED]
Sent: Tuesday, August 26, 2014 1:57:37 PM GMT -06:00 US/Canada Central
Subject: Draft letter to the editor re: Chancellor Wise

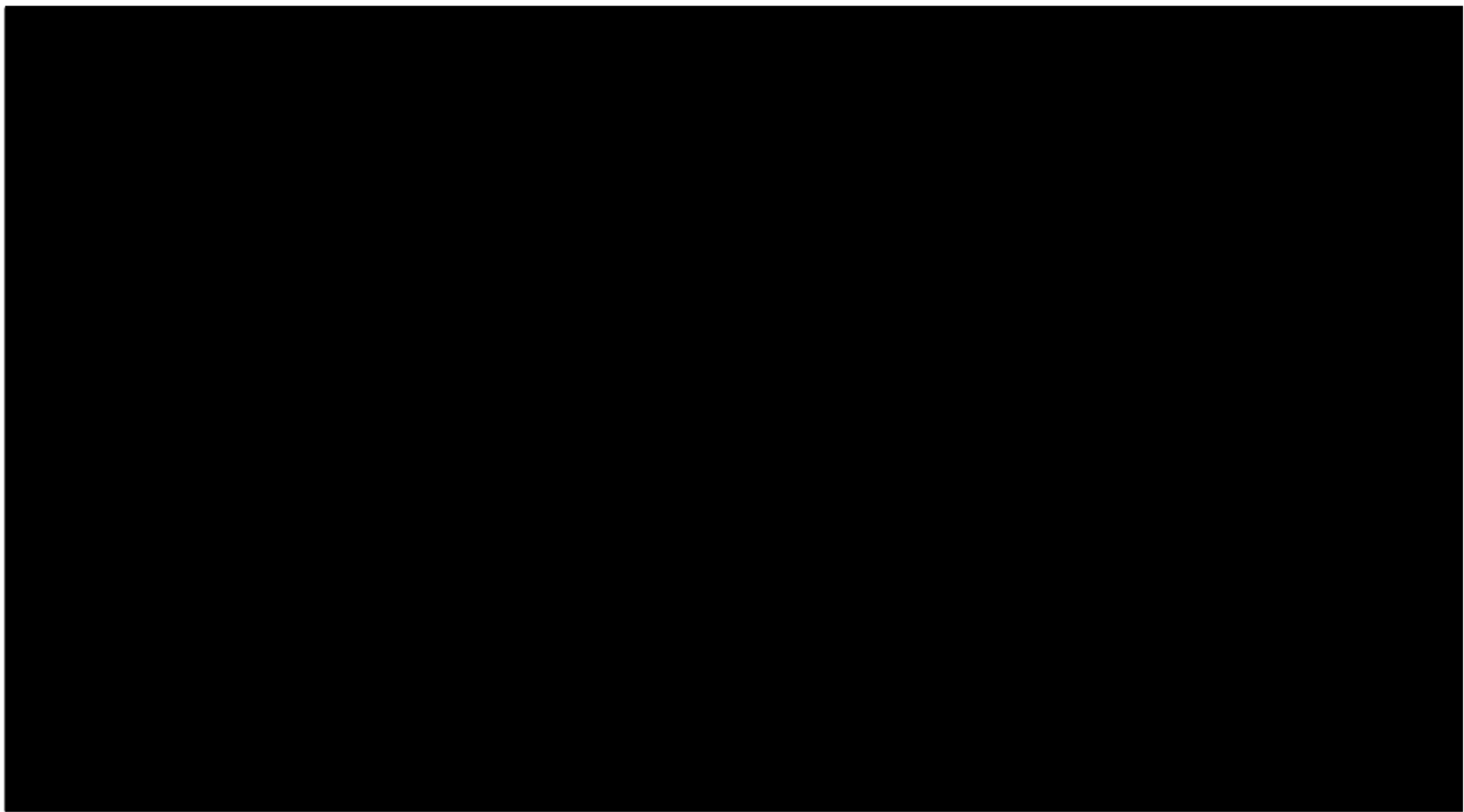
my initial draft. please let me know your thoughts.

I can't decipher Mike D's handwriting for his private email. Please forward to his [REDACTED] if you wish. thank you

Habeeb

Subject: Draft letter to the editor re: Chancellor Wise

A large, solid black rectangular area that covers the bottom half of the email, from just below the subject line to the bottom of the page. This area is used to redact the main body of the email, which would typically contain the draft letter mentioned in the subject line.



From: Habeeb Habeeb <habeeb@bpcinc.com>
Sent: Tuesday, August 26, 2014 8:08 PM
To: Ilesanmi Adesida
Cc: [REDACTED]
Subject: Re: Eli Lilly making renewed push in biotech field, where it once pioneered | 2014-08-16 | Indianapolis Business Journal | IBJ.com

Ade: I just made it safely to [REDACTED] It was great to see you too. Glad to help in every way you need it.

Habeeb

Sent from my iPhone

On Aug 26, 2014, at 8:45 PM, "Ilesanmi Adesida" [REDACTED] > wrote:

Habeeb,

Thanks for coming to the meeting today. Your voice and support are most valuable. It was great seeing you at the airport. I have made it to DC; hope your plane to [REDACTED] was not delayed.

Thanks.

Ade

On Tue, Aug 26, 2014 at 8:29 AM, Habeeb Habeeb <habeeb@bpcinc.com<mailto:habeeb@bpcinc.com>> wrote:
Eli Lilly is in Indiana. This article is from the Indianapolis Business Journal
<http://www.ibj.com/eli-lilly-making-renewed-push-in-biotech-field-where-it-once-pioneered/PARAMS/article/49069>

Sent from my iPhone

From: Habib Habib <habib@bpcinc.com>
Sent: Tuesday, August 26, 2014 8:13 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Draft letter to the editor re: Chancellor Wise

Robin: the pleasure is mine (to have met you). Thank you for your feedback. I will send this off.

Sent from my iPhone

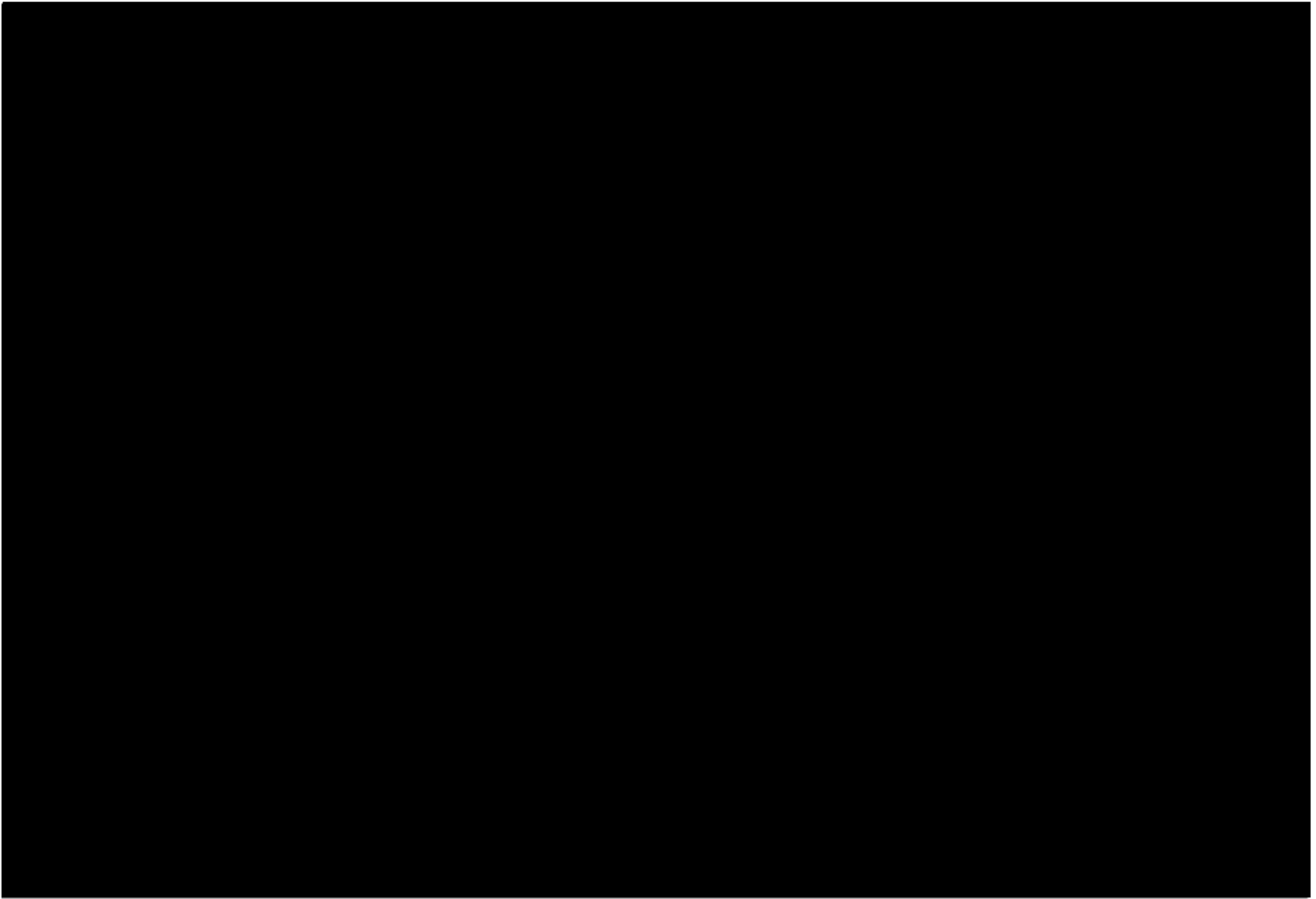
On Aug 26, 2014, at 8:37 PM, [REDACTED] wrote:

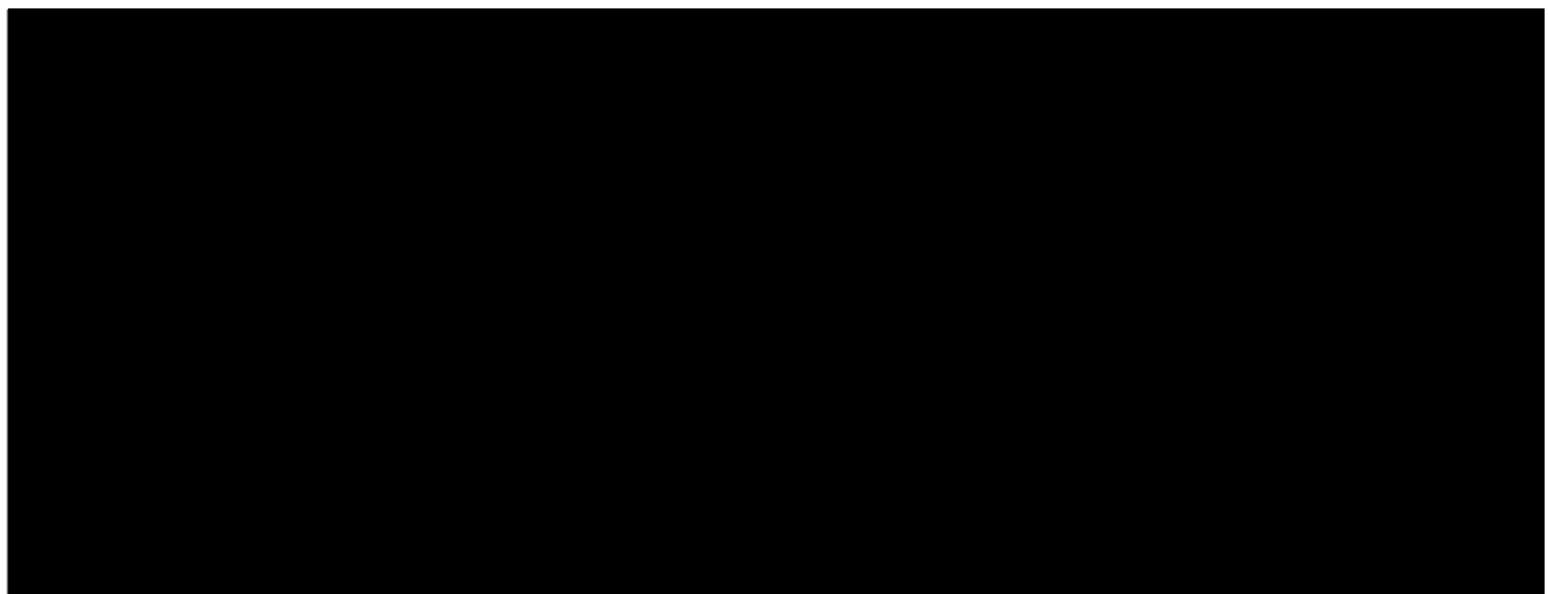
Dear Habib:

It was so nice to meet you today. Thank you for the preview of your letter. It is heartfelt and thoughtful. I made a couple of minor copy edits. Please ignore them if they aren't helpful.

Warm regards,
Robin

Subject: Draft letter to the editor re: Chancellor Wise





From: Habeeb Habeeb <habeeb@bpcinc.com>
Sent: Tuesday, August 26, 2014 11:16 PM
To: [REDACTED]; 'Ilesanmi Adesida'; [REDACTED]; 'Michael'
Subject: to NG, John Foreman from Habeeb = FW: In support of the Chancellor

Dear Chancellor and friends.

Below is what I sent to John Foreman at the News Gazette. This is my duty and the least I can do. I will also be asking others to step up to the plate.

Habeeb

Habeeb Habeeb
www.bpcinc.com

From: Habeeb Habeeb
Sent: Tuesday, August 26, 2014 11:05 PM
To: John Foreman (jforeman@news-gazette.com)
Cc: Marla Rupert (mrupert@news-gazette.com); Habeeb Habeeb
Subject: In support of the Chancellor
Importance: High

Hello John and NG Editorial Board.

I am travelling to [REDACTED] for a couple of days but thought it urgent to send this Guest Editorial in support of the Chancellor. Things have deteriorated at a rapid pace with people calling for her head. The Chancellor has been a great friend and supporter of this community, and I hope that the News Gazette takes time to present a second point of view.

In addition to the guest editorial and for the sake of readers and the community as a whole, please consider a prominently placed article interviewing people with views different than the Department of Native American Studies, such as academics and members of the community. I would be willing to chat with the NG on the record and at more length for such an article and I hope you talk to many others.

I have personally researched Steven Salaita's Twitter feed and read every single tweet going back to June. His tweets are vile, and if the names and ethnicities were switched, people would be calling for his head, no doubt about it. Compare that with the Civility initiative we had a couple of years ago spearheaded by the Champaign Public Library and funded by sponsors such as the NG and myself, among many others. We were trying to build a better community. What a stark difference!

It was obvious the Chancellor was in a no win position. Darned if you do and darned if you don't (pardon the cliché)... At a time when we deride Washington for partisanship and toxic behavior, academia should set a stellar example and show the next generation how to conduct a vigorous and healthy debate and exchange ideas in a civil manner. Salaita's behavior should be embarrassing to academics if they stop for a moment and not panic that their academic freedom is in jeopardy.

Thank you in advance. I hope you choose to print this:

Support for Chancellor Wise

I have personally known Chancellor Wise since her arrival to our community and have been impressed by how personable she is and how passionate and outspoken she has been about human rights, diversity, and inclusion. She has always advocated high values and extreme respect for everyone from various backgrounds and beliefs. She even turned the other cheek when students took to Twitter to hurl disgusting racial slurs at her simply for not canceling classes. Instead of retaliating back at students, the Chancellor chose to use the incident as an opportunity to teach students that a diversity of opinion is encouraged but it must not degenerate into an uncivil discourse.

What else has she done? Even though Chancellor Wise has only been at the University for a relatively short time, she has hit the ground running in every way possible. Her love for our community and the people in our community is 100% evident and obvious. When asked about what she loves best about Urbana-Champaign, her answer is "the people and how welcoming they have been." It is so incredibly refreshing to hear that when we know that she has come to us from California and Washington state, places where people yearn to move to because of geography and weather.

She has shown tremendous leadership by starting and rapidly moving along a dialogue about economic development. She has been creative and innovative in helping the University find a niche by pursuing an engineering-medical partnership without asking the state for funding. Such a partnership will help create good-paying and badly-needed jobs in Champaign County. As the State is reeling from a shortage of funds, Chancellor Wise is helping the University become less dependent on State funding. She has done all this by bringing people together rather than by being divisive.

Chancellor Wise has been sensitive to Native American issues and to issues of diversity. Therefore it is very ironic that the Department of American Indian Studies is condemning her. The Chancellor has worked to ensure that the classroom is a place where students are not comfortable but instead where their thinking is challenged. Her decision to send the letter to Steven Salaita is being decried by some. As for me, I stand in support of her decision and agree with her that our classrooms should be challenging not comfortable, with a diversity of thought. The next point is most important; that classrooms must be challenging but not threatening. There is a line between freedom of expression and causing others to feel threatened. Steven Salaita crossed many lines in his tweets, and I have and would equally condemn such behavior if anyone from another ethnicity said the same.

Chancellor Wise has been a true leader on this campus and in the community, and both University and Community should stand in support of her. People should not be silent. Instead, they must show courage by stepping up to the plate and voicing support in a civil manner. We need a kinder, gentler nation coupled with thought-provoking classrooms, not bully teachers who refuse to hear any other views (see his tweets).

Thank you, Chancellor Wise, for all the good for which you stand.

Gratefully on behalf of the community,
Habeeb Habeeb

Habeeb Habeeb, MBA, ACFCI | President & CEO

Benefit Planning Consultants, Inc

2110 Clearlake Blvd., Suite 200 | Champaign, IL 61822

p: 217.355.2300 Ext. 400 | p: 800.355.2350 | fax: 217.355.5100

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See Habeeb's Motivational Minutes at www.habeebhabeeb.com

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From: Phyllis M Wise [REDACTED] >
Sent: Thursday, August 28, 2014 12:56 PM
To: Ilesanmi Adesida
Subject: Re: Today

Going to student senate next Wed September 3. Don't know time.

Sent from my iPhone

On Aug 28, 2014, at 12:06 AM, Ilesanmi Adesida [REDACTED] wrote:

Phyllis,

Thanks. It is great to start seeing a turn around. I do hope the supporters will find a firm voice. Peter Fox called today and wanted to know how he can help also. I told him what things on the line what Habeeb was doing.

I am happy that you are meeting with the three leaders of the Humanities community on campus. Renee has tremendous rapport with a broad spectrum of our students. It is great that she has been able to use this to a positive effects. Let me know when you are going to the student senate.

Safe travels to Peoria.

Ade

On Wednesday, August 27, 2014, Phyllis Wise [REDACTED] > wrote:
Ade,

Welcome home. What a whirlwind trip. There were more positive emails than negative ones. I called Phyllis to check whether she was shielding me from the negative ones. She said no, that she felt the tide was turning and that those who supported my decision were finding a voice.

Renee stopped the students from returning to Swanlund by promising them that I would meet with them. I'll do that next Week sometime. Renee is a real hero.

I will meet with Dianne Harris, Antoinette Burton, and Michael Rothberg next Tuesday. All of them thanked me for reaching out. I told them that I didn't think we would agree but I thought that meeting would help us to understand each other better.

Tomorrow I go to Peoria, OK. Back on Saturday and will really practice for Sept 3 and 5: important stuff!

Phyllis

Sent from my iPad

From: [REDACTED]
Sent: Thursday, August 28, 2014 8:49 PM
To: Phyllis Wise; [REDACTED]
Subject: thoughts
Attachments: draft notes.docx

Hi Phyllis and Scott:

I don't know if these personal notes are helpful, but I thought I'd share them with you two.

Thanks,
r

From: Phyllis M Wise [REDACTED]
Sent: Thursday, August 28, 2014 11:28 PM
To: Wise Phyllis
Subject: Fwd: thoughts
Attachments: draft notes.docx; Untitled attachment 08593.htm

Sent from my iPhone

Begin forwarded message:

From: [REDACTED]
Date: August 28, 2014 at 8:48:33 PM CDT
To: Phyllis Wise [REDACTED]
Subject: thoughts

Hi Phyllis and Scott:

I don't know if these personal notes are helpful, but I thought I'd share them with you two.

Thanks,
r

From: Phyllis Wise [REDACTED]
Sent: Thursday, August 28, 2014 11:45 PM
To: [REDACTED]
Subject: Re: thoughts

Robin,

I appreciate all the thought that went into your draft notes. I agree with the steps that you outline. But I think you know that we are trying to organize a meeting for Tuesday morning at 7 (I will confirm when I talk with Phyllis) to continue our discussion of next steps.

There is one point that you omitted in your timeline. [REDACTED]
[REDACTED]

Before sending the letter I spoke with and informed Kim Graber, Roy Campbell (I left a vm), Nick Burbules, and Joyce Tolliver. I emailed Robert Warrior before sending the letter.

Phyllis

On Thursday, August 28, 2014 9:03 PM, '[REDACTED]' <[REDACTED]> wrote:

Hi Phyllis and Scott:

I don't know if these personal notes are helpful, but I thought I'd share them with you two.

Thanks,
r

From: Ilesanmi Adesida [REDACTED]
Sent: Friday, August 29, 2014 1:13 AM
To: Andreas Cangellaris
Subject: Re: Engineering and the rest...

That's intimidation!

On Thu, Aug 28, 2014 at 10:15 PM, Andreas Cangellaris <[REDACTED]> wrote:
Ade,

Rumor has it that campus one or more leaders from south of Green suggested that any opinion expressed by engineers and physical scientists on the Salaita case is irrelevant because "they do not get it" (what freedom of speech and academic freedom is all about).

I will do my best to confirm whether this opinion was expressed. I am giving you the heads up because, if indeed this is what was said, I feel obliged to discuss the specifics with my admin and my executive committee.

Andreas

To: Phyllis Wise
From: [REDACTED]
Subject: Thought you could use this...
Sent: Fri Aug 29 18:52:03 2014
Importance: Normal

:)

Summary #1

My Message to 75 Senate Faculty Members, Mostly in Scientific Disciplines—and Current Replies

From: Leroy, Michael H

Sent: Friday, August 29, 2014 1:54 PM

To: ****

Subject: Senate

Dear Prof. ****,

I understand that a vote will likely be scheduled in the Senate in about three weeks concerning the Chancellor.

I fully support the Chancellor, but I realize that you and others may not. If that is the case, I respect our differences.

In the interest of brevity, I am dispensing with my justifications; but I am available to talk about this, if you wish to have this conversation.

The point of my note is this: If you want to support the Chancellor, kindly let me know.

Michael

Michael H. LeRoy

Michael H. LeRoy

Professor

School of Labor & Employment Relations & College of Law

University of Illinois at Urbana-Champaign

(217) 244-4092

FACULTY MEMBER #1

Michael - I would like to help mount a letter signature campaign - and I have a draft.

When could we talk?

FACULTY MEMBER #2

Dear Michael,

Thanks for the note. I do support the Chancellor.

I am not sure what the vote in 3 weeks is going to be about possible not hiring the recent Prof. Salaita. This is the first I have heard of it but at this point I would vote to support the chancellor not knowing what the issue is specifically.

FACULTY MEMBER #3

Michael,

I probably need to consider the issue more fully before making a final decision, but from what I've read in the News-Gazette and at this juncture, I am leaning towards support for the Chancellor as well.

Thank you,

FACULTY MEMBER #4

I am familiar to some extent. I understand that the professor being hired took side with Hamas in the Middle East conflict and made statements on twitter and as a result his Board of Trustees vote is not going through. Is my understanding reasonably accurate ?

FACULTY MEMBER #5

Hi Michael,

At this time, I am upset about the apparent mistake that was made and I understand the damaged that is done to intellectual freedom and the university's reputation. But on the whole I believe Chancellor Wise has been very good for this campus and I believe it is not in our best interests to take major action against her.

The above does not represent the sentiments of my department. However, I have not heard anything inconsistent with the above from my faculty at this point.

FACULTY MEMBER #6

Hi Michael,

I have concerns about this particular decision from the Chancellor, and the process (or lack thereof) that was followed. However, I few this as (at worst) a small blemish on an otherwise stellar record, and I feel that the Chancellor on the whole has done a fantastic job. So in that sense I wish to "support" the Chancellor. I think it would be extremely short-sighted to have a no-confidence vote in this case.

Cheers,

FACULTY MEMBER #7

Dear Michael,

I fully support the Chancellor and am I eager to show this support both publicly and privately. Please keep me informed of any opportunities to show my support or otherwise take positive steps in this direction.

Best regards,

FACULTY MEMBER #8

Hi Michael,

I support the Chancellor.

-Brenda

FACULTY MEMBER #9

Thanks. Yes, I agree wholeheartedly with the letter. As you've written, hatred, bigotry and aggression have no business here. I guess then I will support the chancellor in this future vote.

Have I interpreted things correctly?

FACULTY MEMBER #10

Dear Prof. LeRoy,

Could we chat over the week end or after 6:30 pm tonight.

I will be happy to call you if you tell when convenient for you and what number I may call. Thanks.

FACULTY MEMBER #11

Michael,

I guess I was unaware of this possibility. Yes, I support the Chancellor.

Any basis of the vote? What faction is bringing this forward?

FACULTY MEMBER #12

Dear Michael,

I suppose this is in response to the "Salatia issue". I do fully support Chancellor Wise. It seems that some of our faculty forget that a faculty member who doesn't have the respect of students or their colleagues is an ineffective faculty member. Thankfully, Chancellor Wise understands this.

I will pay attention to when this vote of confidence might be scheduled, and make sure I am present.

Regards,

FACULTY MEMBER #13

Dear Prof. Leroy,

Thanks for your email. I am not aware of this vote. However, I agree with you and firmly support the Chancellor.

FACULTY MEMBER #14

I encourage your efforts. It seems to me that most of my fellow senators north of Green support the chancellor, but again this just my opinion.

FACULTY MEMBER #15

Yes, Michael, I am very supportive of the Chancellor and plan to make sure that I will be present for the vote.

FACULTY MEMBER #16

Thanks for the note and I am glad that you are taking the initiative to drum up some support.

I chatted w. some of the Engineering senators yesterday and I think we have broad agreement that we need to keep the chancellor at a time particularly, given a presidential search is underway. My biggest concern is that she not throw in the towel and quit in response to the various silly votes of no confidence.

FACULTY MEMBER #17

Michael:

I also fully support the Chancellor and think she has made excellent decisions, including the recent one that has received publicity. This campus cannot afford to lose such a great asset, and you can count on me to be present at the Senate meeting

From: Ilesanmi Adesida [REDACTED]
Sent: Saturday, August 30, 2014 8:48 PM
To: Andreas Cangellaris
Subject: Re: Thoughts...

Andreas,

Thanks for your thorough analysis of the AAUP's letter. Definitely, there are definitely different interpretations to the letter and the points therein.

Your conclusion/summary in A and B are spot on but the only issue is the withholding of the decision. We should talk, I don't think that there will be a reversal. The fundamental question is what process do we put in place. Nothing like this has happened at least out in the open before and will not happen again. There will be due process plans put in place.

Let's talk tomorrow.

Ade

On Sat, Aug 30, 2014 at 2:04 PM, Andreas Cangellaris [REDACTED] wrote:
Ade,

Like every written statement by man, the language used in the AAUP letter lends itself to different interpretations according to the reader's predisposition or objectives. Be that as it may, looking at this letter with as much objectivity as possible, I conclude the following.

The letter's primary focus is on academic process, rather than academic freedom (as seen by the text in the portion of the letter starting from the last paragraph on p. 2 and ending at the end of the second paragraph on p. 3). They state that "aborting an appointment in this manner ... is an action inimical to academic freedom and due process and one aggravated in his case by the apparent failure to provide him with any written or even oral explanation." The latter part of this sentence is particularly important. Given that eventually an explanation was provided to him, its belated nature -- following several indications to him that his appointment was certain offered by our process in engaging and supporting new faculty members -- points to shortcomings with our approval process. Based on what I have heard, I believe a committee of faculty senators and other faculty members has been asked to review and provide recommendations for improvements.

Paragraph 4 on p. 3 pretty much says that while faculty members should be free from institutional censorship or discipline when they speak or write as citizens, they should nonetheless act responsibly as citizens. And it concludes by saying that there might be here an issue of academic freedom, but it is hard to say if there is one without further consideration through academic due process.

The fact is that the community is split on whether Salaita was acting responsibly. Just reflect on Gary Nelson's statement on the case. My guess is that for every faculty member who thinks one way, there is one who thinks the opposite way.

With this in mind, it is my opinion that the only thing that one can legitimately criticize the Chancellor for is for not following due process in deciding on the case. As far as I can tell, this is the only thing that this AAUP letter challenges her on.

It is my understanding that in a recent meeting with the ODEA(?) committee the Chancellor said that she did something that she will NEVER do again. The person attending who told me of this, understood this to mean that she regretted that she did not follow "academic due process."

If this is indeed how the Chancellor feels about it, this letter provides her with the opportunity to:

- A) not reverse her earlier statement about her feelings about Salaita not "acting responsibly" in his statement as a citizen;
- B) acknowledge that academic due process has not (or may not have) been followed, and she will give it the opportunity to take place. Along these lines she will withhold her initial decision on the case.

Andreas

From: Nick Burbules [REDACTED]
Sent: Sunday, August 31, 2014 7:13 AM
To: Joyce Tolliver; Jeffrey Brown
Subject: The Salaita issue and faculty unionization

The blog that Joyce Tolliver and I run took a bit of a hiatus over the summer, but we are back now.

You might be interested in our latest posting:

<http://nofacultyunion.blogspot.com/2014/08/the-salaita-controversy-and-unionization.html>

If you like it, please share it with others

Nick Burbules

From: Andreas Cangellaris [REDACTED]
Sent: Sunday, August 31, 2014 10:00 AM
To: Ilesanmi Adesida
Subject: Fwd: Warrior-Drive Memo 8.28.14
Attachments: Warrior-Drive Memo 8.28.14.docx; Untitled attachment 07266.htm

FYI

Sent from my iPhone

Begin forwarded message:

From: "Cangellaris, Andreas C" <cangella@illinois.edu>
Date: August 31, 2014 at 9:12:20 AM CDT
To: Andreas Cangellaris [REDACTED]
Subject: Fwd: Warrior-Drive Memo 8.28.14

Sent from my iPhone

Begin forwarded message:

From: "Singer, Andy" <acsinger@illinois.edu>
Date: August 31, 2014 at 8:55:26 AM CDT
To: "Cangellaris, Andreas C" <cangella@illinois.edu>
Subject: Warrior-Drive Memo 8.28.14

Here's the memo.
A

August 31, 2014

To: "DRIVE" Committee

From: Robert Warrior

Re: Search questions arising from Salaita appointment,
campus/BoT messages, AAUP letter, media coverage

Massmail communications from the chancellor and the Board of Trustees on August 22 regarding the appointment of Steven Salaita and the public letter from AAUP about the case a week later have given rise to many responses on campus and across the academic world. One that has clearly drawn interest and alarm among executive officers is the formation of a committee to propose a process for future actions similar to the Salaita appointment (see below). Since the chancellor and provost are ex officio members of the body (the SEC) that approved the creation of this committee, it seems appropriate that this group attend to its implications.

In general, increasing numbers of faculty members are concerned about the impact of what has happened with the Salaita appointment on searches in the 2014-15 cycle, so anyone representing the chancellor is likely to be asked questions about the case, civility, and academic freedom during presentations regarding searches. Imagine yourself as a department head negotiating with someone who has multiple offers to consider, including one from this campus under a cloud of potential AAUP sanction and the mandated language of pending Board of Trustee approval in our offer letters and offers and counteroffers from equivalent schools who don't share these problems. How can you convince someone to choose Illinois rather than accept a retention offer or go to someplace else?

With nearly 17,000 signatures (and growing) on a change.org petition (among the highest of any petition on that website) and over 3,000 scholars boycotting our campus (promising not to accept invitations to lecture and in many hundreds of cases also saying they will not agree to conduct tenure, promotion, or departmental reviews), the university's reputation, in some areas at least, is in tatters. The first

two CAS Miller/Comm Series lecturers of the year have canceled. The Department of Philosophy has had its entire colloquium series roster for the fall cancel. For many of us, especially in the very units that have provided the foundation of faculty diversity at Illinois (African American Studies, Asian American Studies, Latina and Latino Studies, Gender and Women's Studies, and American Indian Studies), this is nothing short of a complete disaster.

If our committee intends to take seriously its charge to address issues of diversity in faculty hiring, I would suggest that our colleagues on search committees deserve a response to their concerns. We cannot, of course, answer all of their questions. But if we cannot provide some guidance, I don't know what our purpose is. I have pasted the SEC's resolution for its committee below. Following that is a letter to Academic Human Resources that is now circulating in response to the massmail messages of August 22. You might read the questions as satirical, but I think that would be a mistake. If university leaders choose to make certain sorts of decisions, I submit that they legitimize the asking of these sorts of questions.

SEC RESOLUTION ON AD HOC COMMITTEE FORMATION

Approved August 25, 2014

WHEREAS decisions about faculty hiring, tenure, and promotion "are primarily a faculty responsibility" (AAUP Statement on Government of Colleges and Universities <http://www.aaup.org/file/statement-on-government.pdf>); and

WHEREAS "All appointments, reappointments, and promotions of the academic staff . . . shall be made by the Board of Trustees on the recommendation of the chancellor/vice president concerned and the president" (University of Illinois Statutes, IX. 3.a); and

WHEREAS there is currently no process stipulated in the governing documents of the University of Illinois to deal with cases in which a unit's recommendation for appointment of a tenure-track faculty member is considered by campus administrators to be potentially unacceptable,

THEREFORE, BE IT RESOLVED that the Chair of the Senate Executive Committee, in consultation with the Office of the Provost, charge a task force composed of tenured faculty members and appropriate administrative officers to propose a process for impartial and expeditious consultation to be followed in cases where the provost or the chancellor find potential reasons not to proceed with a tenure-track hire that has already been approved by department and college committees; and

BE IT ALSO RESOLVED THAT the task force's report shall be reviewed by the Senate, which will forward its comments to the Office of the Provost.

Dear Sharon Reynolds:
(Associate Director, Academic Human Resources,
<sreynlds@illinois.edu>)

I am on a hiring committee this year in the Department of _____. We have some questions, in light of the Chancellor's recent massmail about civility.

1. Should we review the social media postings of all job applicants, or only those we wish to interview, or only those we wish to make offers to?

2. Which social media should we check? The internet develops so quickly. We know about Facebook and Twitter. Are there other sites we need to monitor? A complete list would be most welcome (see point 6 below).

3. Should we review social media postings written only in English, or should we also consider postings in foreign languages? Our department lacks fluent speakers of many major languages - could campus help out with resources? We feel we cannot rely on Google Translate, since the difference between civility and incivility cannot be reliably preserved by machine translation.

4. How should we recognize incivility? e.g. Which expletives are markers of likely incivility? Is there a campus guidebook to which we could refer?

5. Could you offer guidance on situations that are likely to arise, such as: does the use of irony or satire mitigate against a judgment of incivility? For example, if Jonathan Swift applied for a position in my department, should his baby-eating manifesto "A Modest Proposal" be regarded as uncivil? Regrettably, many readers interpret everything in print literally, and hence get offended, which can lead to claims of an "unwelcoming environment".

6. If campus does not intend for all job candidates to be assessed on uniform criteria of civility, then we fear we might be at risk of acting capriciously, and hence incurring a discrimination lawsuit. Could you please advise as to how we can minimize that risk?

7. If instead we are to run civility checks only on those job candidates about whom we receive complaints, then could you tell us what sort of complaints or complainants deserve investigation? e.g. how should we prioritize and investigate complaints from faculty, students, donors, ... ? What sort of documentation should we keep of such complaints, and of our subsequent investigations?

With thanks for your help in navigating these uncharted waters.

From: [REDACTED] on behalf of [REDACTED]
Sent: Tuesday, September 02, 2014 1:51 PM
To: [REDACTED]
Subject: Another take on Salaita: not an abridgment of academic freedom, but a failure to uphold academic standards | The John William Pope Center for Higher Education Policy

Here is the first instance I have found of someone noting that Salaita's scholarly credentials were not vetted properly.

<http://www.popecenter.org/commentaries/article.html?id=3064#.VAYRhS2IWcE.email>

--- This message was sent by [REDACTED] via <http://addthis.com>. Please note that AddThis does not verify email addresses.

Make sharing easier with the AddThis Toolbar: <http://www.addthis.com/go/toolbar-em>

To stop receiving any emails from AddThis, please visit: <http://www.addthis.com/privacy/email-opt-out?e=GwZWeV99SnhVfFF4VXRmaEd5SX4Ickl8>

From: Phyllis Wise <[REDACTED]>
Sent: Saturday, September 06, 2014 11:19 PM
To: Wise Phyllis
Subject: Fwd: Electronic Communication
Attachments: extramural-utterances.pdf; Untitled attachment 08696.htm;
AcademicFreedomandElectronicCommunications.pdf; Untitled attachment 08699.htm

Sent from my iPad

Begin forwarded message:

From: Douglas Beck <[REDACTED]>
Date: September 6, 2014 at 10:05:15 PM CDT
To: Phyllis Wise <[REDACTED]>
Subject: Electronic Communication

Hi Phyllis,

Here is the complete AAUP document on Electronic Communications I mentioned (the July/August issue of *Academe* in which it appears does not yet seem to be available on the publisher's website). I think the most important content of this document is

This report recommends that each institution work with its faculty to develop policies governing the use of social media. Any such policy must recognize that social media can be used to make extramural utterances and thus their use is subject to Association-supported principles of academic freedom, which encompass extramural utterances. As Committee A previously noted regarding extramural utterances, "Professors should also have the freedom to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence."

Obviously, the literal distinction between "extramural" and "intramural" speech—speech outside or inside the university's walls—has little meaning in the world of cyberspace. But the fundamental meaning of extramural speech, as a shorthand for speech in the public sphere and not in one's area of academic expertise, fully applies in the realm of electronic communications, including social media.

I have also appended the most recent, and I believe complete, AAUP statement on extramural utterances which indeed includes the statement above, but continues (my emphasis added)

The 1940 Statement of Principles asserts the right of faculty members to speak or write as citizens, free from institutional censorship or discipline. At the same time, it calls attention to the special obligations of faculty members arising from their position in the community: to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to make every effort to indicate that they are not speaking for the institution.

Hope this might be of some help.

If, after the call tomorrow, you think I can help, let me know.

Doug

Committee A Statement on Extramural Utterances

The statement that follows was approved by the Association's Committee A on Academic Freedom and Tenure in October 1964. Its purpose is to clarify those sections of the 1940 Statement of Principles on Academic Freedom and Tenure relating to the faculty member's exercise of freedom of speech as a citizen. In 1989, Committee A approved several changes in language in order to remove gender-specific references from the original text.

The 1940 *Statement of Principles* asserts the right of faculty members to speak or write as citizens, free from institutional censorship or discipline. At the same time, it calls attention to the special obligations of faculty members arising from their position in the community: to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to make every effort to indicate that they are not speaking for the institution. An interpretation of the 1940 *Statement*, agreed to at a conference of the Association of American Colleges and the AAUP held on November 8, 1940, states that an administration may file charges in accordance with procedures outlined in the *Statement* if it feels that a faculty member has failed to observe the above admonitions and believes that the professor's extramural utterances raise grave doubts concerning the professor's fitness for continuing service.

In cases involving such charges, it is essential that the hearing should be conducted by an appropriate—preferably elected—faculty committee, as provided in Section 4 of the 1958 *Statement on Procedural Standards in Faculty Dismissal Proceedings*.¹ The controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness to serve. Extramural utterances rarely bear upon the faculty member's fitness for continuing service. Moreover, a final decision should take into account the faculty member's entire record as a teacher and scholar. In the absence of weighty evidence of unfitness, the administration should not prefer charges; and if it is not clearly proved in the hearing that the faculty member is unfit to continue, the faculty committee should make a finding in favor of the faculty member concerned.

Committee A asserts that it will view with particular gravity an administrative or board reversal of a favorable faculty committee hearing judgment in a case involving extramural utterances. In the words of the 1940 *Statement of Principles*, "the administration should remember that teachers are citizens and should be accorded the freedom of citizens." In a democratic society freedom of speech is an indispensable right of the citizen. Committee A will vigorously uphold that right.

Note

1. Section 4 provides:

The committee of faculty members to conduct the hearing and reach a decision should either be an elected standing committee not previously concerned with the case or a committee established as soon as possible after the president's letter to the faculty member has been sent. The choice of members of the hearing committee should be on the basis of their objectivity and competence and of the regard in which they are held in the academic community. The committee should elect its own chair. (AAUP, *Policy Documents and Reports*, 10th ed. [Washington, D.C., 2006], 13.)

Academic Freedom and Electronic Communications

(APRIL 2014)

This report was prepared by a subcommittee of the Association's Committee A on Academic Freedom and Tenure and initially published in 1997. A revised text was approved by Committee A and adopted by the Association's Council in November 2004. A revised and expanded text was approved by Committee A and adopted by the Association's Council in November 2013.

In November 2004, the Association's Council adopted *Academic Freedom and Electronic Communications*, a report prepared by a subcommittee of Committee A on Academic Freedom and Tenure and approved by Committee A. That report affirmed one “overriding principle”:

Academic freedom, free inquiry, and freedom of expression within the academic community may be limited to no greater extent in electronic format than they are in print, save for the most unusual situation where the very nature of the medium itself might warrant unusual restrictions—and even then only to the extent that such differences demand exceptions or variations. Such obvious differences between old and new media as the vastly greater speed of digital communication, and the far wider audiences that electronic messages may reach, would not, for example, warrant any relaxation of the rigorous precepts of academic freedom.

This fundamental principle still applies, but developments since publication of the 2004 report suggest that a fresh review of issues raised by the continuing growth and transformation of electronic-communications technologies and the evolution of law in this area is appropriate. For instance, the 2004 report focused largely on issues associated with e-mail communications and the posting of materials on web-sites, online bulletin boards, learning-management systems, blogs, and listservs. Since then, new social

media, such as Facebook, LinkedIn, Reddit, Tumblr, and Twitter, have emerged as important vehicles for electronic communication in the academy.

Already in 2004 it was clear that electronic communications could easily be forwarded to others at vastly greater speeds, with potentially profound implications for both privacy and free expression. As Robert M. O'Neil has written, “An electronic message may instantly reach readers across the country and indeed around the globe, in sharp contrast to any form of print communication. Although a digital message, once posted, can be infinitely altered over time—another significant difference—the initial message may never be retracted once it has been sent or posted. Indeed, the first posting may remain accessible on ‘mirror’ sites despite all efforts to suppress, remove, and expunge it.”¹ Electronic communications can be altered, or presented selectively, such that they are decontextualized and take on implicit meanings different from their author's original intent. With the advent of social media such concerns about the widespread circulation and compromised integrity of communications that in print might have been essentially private have only multiplied further.

Moreover, while the 2004 report assumed that electronic communications produced by faculty members in the course of their teaching and research were

1. Robert M. O'Neil, *Academic Freedom in the Wired World* (Cambridge, MA: Harvard University Press, 2008), 179–80.

physically located on servers and computers owned and operated by their colleges and universities, today institutions increasingly employ technologies associated with cloud computing and other outsourcing strategies. These may involve relinquishing control to third-party services, storing data at multiple sites administered by several organizations, and relying on multiple services across the network—a shift that poses potentially profound challenges to academic freedom.

These changes have been magnified by the growing proliferation of new electronic-communications devices, such as smartphones and tablets. At Oakland University in Michigan, for example, the university's roughly 7,500 students now bring an average of 2.5 devices each to campus, while faculty members bring about two.² The desire of growing numbers of faculty members, staff members, and students to have access to communications and information on multiple devices, especially mobile devices, has increasingly driven institutions to create "BYOD" (bring-your-own-device) policies. By embracing individual consumer devices, an institution may better address the personal preferences of its faculty, staff, and students, offering not only increased mobility but also increased integration of their personal, work, and study lives. However, the increasing number of devices and the increasing demand for bandwidth from new applications may strain institutional resources in ways that might lead institutions to establish access restrictions that could adversely affect academic freedom.

More important, such practices can further blur boundaries between communications activities that are primarily extramural or personal and those that are related more directly to teaching and scholarship. Digital devices such as smartphones have also promoted increased interactivity between users and their devices, permitting users to create their own content but also to leave personal "footprints," which might be subject to surveillance.

As in 2004, "college and university policies that were developed for print and telephonic communications"—and policies developed for earlier modes of electronic communications—"may simply not fit (or may fit imperfectly) the new environment." *Faculty members need to understand more completely the implications for academic freedom of electronic-*

communications technologies, and they should be directly involved in the formulation and implementation of policies governing such technology usage.

I. Freedom of Research and Publication

The 2004 report affirmed: "The basic precept in the 1940 *Statement of Principles on Academic Freedom and Tenure* that 'teachers are entitled to full freedom in research and in the publication of the results' applies with no less force to the use of electronic media for the conduct of research and the dissemination of findings and results than it applies to the use of more traditional media." As that report noted, however, access to materials in digital format may be subject to greater restrictions than would be the case with print-format materials.

A. Access to Information in Digital Format

Academic freedom is dependent on a researcher's ability not only to gain access to information but also to explore ideas and knowledge without fear of surveillance or interference. Historically, scholars have gained access to published and often to unpublished research materials through college and university libraries. Electronic-communications technologies have permitted many libraries to offer access to a far broader array of materials than in the past through a wide variety of online databases. Some online catalogs, designed to replicate social media, now allow users to leave notations and reviews of cataloged materials that can be viewed around the world.

To be sure, as O'Neil has noted, "[a]lthough a university does to some degree control a scholar's recourse to print materials by its management of library collections, . . . the potential for limitation or denial of access is vastly greater when the institution maintains and therefore controls the gateway to the Internet."³ Colleges and universities certainly are entitled to restrict access to their library resources, including electronic resources, to faculty members, staff members, students, and other authorized users, such as alumni and recognized scholars from other institutions, in accordance with policies adopted by the institution with the participation of the faculty. But the extent to which access to electronic materials may be limited is not always under the control of the library or even of the institution. Third-party vendors may seek to impose restrictions on access that go beyond those claimed by the institution itself, and such restrictions

2. Carl Straumsheim, "Device Explosion," *Inside Higher Ed*, September 5, 2013, <http://www.insidehighered.com/news/2013/09/05/wireless-devices-weigh-down-campus-networks>.

3. O'Neil, *Academic Freedom in the Wired World*, 181.

are rarely defined by faculty governance structures. Those vendors may also impose auditing requirements that are in tension with librarians' obligations to respect the confidentiality of patrons.

Concerns about access were heightened in early 2013 following the tragic suicide of open-access advocate Aaron Swartz. In 2011, a federal grand jury had indicted Swartz for the theft of millions of journal articles through the JSTOR account of the Massachusetts Institute of Technology. It was thought that Swartz had wanted to make all of those articles freely available. Authorities charged him with having used an MIT guest account, even though he did not have a legal right to do so. At the time of his death, Swartz faced millions of dollars in fines and legal costs and decades in prison if convicted. He reportedly had suffered from depression, but there was speculation that his legal troubles led to his suicide.

Although JSTOR declined to pursue action against Swartz, some charged that "MIT refused to stand up for Aaron and its own community's most cherished principles."⁴ Ironically, however, it was MIT's relatively open policy of access to its network that enabled Swartz to obtain the downloaded materials. In its own subsequent investigation of the matter, MIT acknowledged that it had missed an opportunity to emerge as a leader in the national discussion on law and the Internet. But the university denied having had any active role in his prosecution.⁵

Scholars have also debated whether Swartz's action was actually a kind of theft. "The 'property' Aaron had 'stolen,' we were told, was worth 'millions of dollars,'" wrote Harvard law professor Lawrence Lessig, "with the hint, and then the suggestion, that his aim must have been to profit from his crime. But anyone who says that there is money to be made in a stash of academic articles is either an idiot or a liar."⁶

The complicated copyright and other issues raised by the open-access movement are beyond the scope of this report. While the digital world has offered great promise to make information accessible to a global community, commercial forces have locked up most research behind paywalls and ever-more-restrictive

licensing agreements. Faculty members who produce research in digital form frequently do not control how that research may be accessed and by whom. The AAUP's 1999 *Statement on Copyright* affirmed that "it has been the prevailing academic practice to treat the faculty member as the copyright owner of works that are created independently and at the faculty member's own initiative for traditional academic purposes."⁷ Any consideration of open access must start from this principle.⁸

Often college and university libraries are themselves compelled to accede to the demands of outside vendors. Libraries and librarians can, however, promote open access to information by supporting institutional repositories, hosting open-access journals, and working with faculty members to promote the value of more open modes of scholarly communication. Libraries may also collaborate with others or work independently to develop a role as publisher both for new content and through digitization of material that is in the public domain or otherwise lawfully available for digitization.⁹

When resources are provided by third-party vendors, the library may also lose control over privacy and confidentiality. When a faculty member visits the library to read a book or a journal article, this activity takes place without triggering any recordkeeping or permissions issues. In the electronic journal and e-book environment, however, records of access and permissions may be critical to resolving issues

7. AAUP, *Policy Documents and Reports*, 10th ed. (Washington, DC: AAUP, 2006), 214–16.

8. As of August 2013, more than 175 universities had endorsed open access. That month, for instance, the University of California Academic Senate adopted an open-access policy that will make research articles freely available to the public through eScholarship, California's open digital repository. The policy applies to all ten of the system's campuses with more than eight thousand tenured and tenure-track faculty members and will affect as many as forty thousand research papers a year. Faculty members can opt out or ask that their work be embargoed for a period of time, as many journal publishers require. In a departure from many other institutions' open-access policies, UC researchers will also be able to make their work available under commercial as well as noncommercial Creative Commons licenses. UC researchers get an estimated 8 percent of all US research money and produce 2 to 3 percent of peer-reviewed scholarly articles published worldwide every year. See "Open Access Gains Major Support in U. of California's Systemwide Move," *Chronicle of Higher Education*, August 5, 2013.

9. One example of such a collaboration may be found at <http://www.philosophersimprint.org/>, an open-access online resource for philosophy scholarship, the mission of which is "to overcome [the] obstacles to the free electronic dissemination of scholarship."

4. Scott Jaschik, "Reacting to Aaron Swartz's Suicide," *Inside Higher Ed*, January 14, 2013, <http://www.insidehighered.com/news/2013/01/14/academe-reacts-aaron-swartzs-suicide>.

5. Colleen Flaherty, "Could Have Done More," *Inside Higher Ed*, July 31, 2013, <http://www.insidehighered.com/news/2013/07/31/mit-releases-report-its-role-case-against-internet-activist-aaron-swartz>.

6. Lawrence Lessig, "Prosecutor As Bully," *Lessig Blog*, January 12, 2013, <http://lessig.tumblr.com/post/40347463044/prosecutor-as-bully>.

concerning licensing and copyright infringement, and the existence of such records may compromise user confidentiality. Sometimes the identity of a person reading a resource is even embedded—both electronically and in text—in the journal article. Such features may violate state laws protecting the confidentiality of library circulation records.

The commitment of libraries and librarians to maximizing access to information and protecting user privacy and confidentiality should not change in the face of new technologies. The maintenance of usage logs for licensing reasons, for diagnosing technical problems, or for monitoring computer performance may be necessary, but libraries must strive to minimize such monitoring and to compile information as much as possible only in the aggregate. So, for example, when the library identifies a user as authorized to gain access to a journal held by another entity, it should indicate that the user is affiliated with the institution without sharing that user's identity.

Nevertheless, third-party vendors may gain access to user information, especially when these vendors offer research tools such as customized portals, saved searches, or e-mail alerts on research topics. How these vendors employ such information and who can gain access to it may be beyond the library's control. Librarians thus have a responsibility to educate users about the potential risks of using third-party tools.

Faculty members can also play a role in shaping the policies of publishers and online vendors regarding access to published research and monitoring of individual users through their roles as members of editorial boards and holders of managerial positions in academic societies and with private publishers. Faculty members in these positions can work with academic libraries to collaborate on cost-effective business models that encourage broad and confidential access to publications.

College and university libraries need to review existing policies on privacy and confidentiality to ensure that they have kept pace with practices and technologies in the library.¹⁰ In addition, when negotiating contracts with vendors, librarians should require those vendors to protect user information to the same degree as if it were in the custody of a library. And, building on the success of laws in forty-eight states that protect the confidentiality of library users, as well as provisions of the Family Educational Rights and Privacy Act that

protect the privacy of educational records, colleges and universities should advocate additional legislation that would provide the same level of protection to information held by third parties on behalf of libraries and their users, whether it is library-controlled information hosted on a server in another state, cloud-hosted information, or user-supplied information in a vendor's customizable portal.

The 2004 report noted that "in many disciplines, scholars may quite legitimately share material that would be deemed 'sexually explicit'—art, anatomy, psychology, etc. Such sharing is at least as likely to occur electronically as it has traditionally occurred in print. The difference in medium should no more affect the validity of such exchanges than it should justify a double standard elsewhere." AAUP policy elsewhere recognizes that academic freedom includes freedom of artistic expression "in visual and performing arts." Increasingly, artistic expression that challenges conventional tastes and norms involves digital images, even more than images on canvas and film, or dance. It is thus vital to affirm that academic freedom applies to such novel modes of artistic expression as well as to traditional media. Nonetheless, the 2004 report on electronic communications noted that there may "be legitimate institutional interests in restricting the range of persons eligible to receive and gain access to such material—especially to ensure that minors are not targeted."

Although in 1968 the US Supreme Court recognized that material that is not legally obscene but is "harmful to minors" may be regulated, subsequent rulings have severely limited the application of this principle when it might affect access to such material by adults.¹¹ In this light, *institutional policy should make clear that faculty members in the course of their research have the right to gain access to and circulate electronically all legal materials, no matter how controversial, even if these might be considered "harmful to minors."*

In particular, colleges and universities should refrain from employment of so-called "filtering" software that limits access to allegedly "harmful" or even "controversial" materials. It is questionable whether such filters are appropriate or effective in school and

10. For more on library privacy and confidentiality policies, see <http://www.ala.org/offices/oif/statementspols/otherpolicies/rfidguidelines>.

11. *Ginsberg v. New York*, 390 US 629 (1968). In 1997, the Court struck down the Communications Decency Act, and in 2009, it declined to review a decision by the US Court of Appeals for the Third Circuit striking down the Children's Online Protection Act. *Reno v. American Civil Liberties Union*, 521 US 844 (1997) and *ACLU v. Mukasey*, 534 F.3d 181 (3rd Cir. 2008), cert. denied, 555 US 1137 (2009).

public libraries, but they surely have no place in higher education facilities. Filters are especially insidious because users often cannot know whether they have been denied access to a site or resource.

B. Security versus Access

In recent years many university information-technology (IT) systems have come under sustained cyberattack, often from overseas. While these attacks have sometimes resulted in the theft of personal information, such as employee social security numbers, they also target faculty research materials, including patentable research, some with vast potential value, in areas as disparate as prescription drugs, computer chips, fuel cells, aircraft, and medical devices. Institutions' infrastructure more generally has also been under threat. Some universities have experienced as many as one hundred thousand hacking attempts each day.¹²

The increased threat of hacking has forced many universities to rethink the basic structure of their computer networks. "A university environment is very different from a corporation or a government agency, because of the kind of openness and free flow of information you're trying to promote," said David J. Shaw, the chief information security officer at Purdue University. "The researchers want to collaborate with others, inside and outside the university, and to share their discoveries."¹³

While many corporate sites restrict resources to employees, university systems tend to be more open, and properly so. The most sensitive data can be housed in the equivalent of small vaults that are less accessible and harder to navigate, use sophisticated data encryption, and sometimes are not even connected to the larger campus network, particularly when the work involves dangerous pathogens or research that could turn into weapons systems.

Some universities no longer allow their professors to take laptops owned or leased by the university to certain countries. In some countries the minute one connects to a network, all data will be copied, or a program or virus will be planted on the computer in hopes that it will be transferred to a home network. Many institutions have become stricter about urging faculty members to follow federal rules that prohibit

taking some kinds of sensitive data out of the country or have imposed their own tighter restrictions. Still others require that employees returning from abroad have their computers scrubbed by professionals before they may regain access to university servers.

These are genuine concerns, and universities are well advised to devote resources to protecting their electronic-communications networks. However, every effort should also be made to balance the need for security with the fundamental principles of open scholarly communication.

C. Scholarly Communication and Social Media

The advent of social media has raised some new questions about how scholars communicate about their research. For example, professors who present papers at scholarly conferences often use those occasions to try out new ideas and stimulate discussion. While they may be willing, even eager, to share unpolished or preliminary ideas with a closed group of peers, they may be less happy to have those in attendance broadcast these ideas through social media. Conference papers are often clearly labeled as "not for circulation." At some meetings, however, attendees at sessions have communicated to others electronically—and often instantaneously—through social media, e-mail, or blogs, reports and comments on papers and statements made by other conference presenters and attendees.¹⁴

Many academic conferences and some individual sessions have associated Twitter hash tags—at times suggested by the conference organizers. As a result, ideas and information that previously would have been controlled by the presenter and limited to a relatively small audience may quickly become accessible globally. Some have worried that reports on social media of conference proceedings might increase the likelihood that others could appropriate a presenter's new and original ideas before that individual has had an opportunity to develop them. While the concern may be speculative and the risk exaggerated, it is clear that new forms of social media and electronic-communications technologies can make research in progress both more accessible and more vulnerable to intellectual property theft. In effect, anyone with an Internet connection can function as a reporter publishing accounts of others' work.

12. Richard Pérez-Peña, "Universities Face a Rising Barrage of Cyberattacks," *New York Times*, July 16, 2013, <http://www.nytimes.com/2013/07/17/education/barrage-of-cyberattacks-challenges-campus-culture.html>.

13. Ibid.

14. Steve Kolowich, "The Academic Twitterazzi," *Inside Higher Ed*, October 2, 2012, <http://www.insidehighered.com/news/2012/10/02/scholars-debate-etiquette-live-tweeting-academic-conferences>.

"The debate over live tweeting at conferences is, in many ways, about control and access: who controls conference space, presentation content, or access to knowledge?" wrote one doctoral student. A professor responded with objections to sharing "other people's work without asking." For some the debate is generational. "I see this as a divide between older and newer forms of academic culture," wrote one younger scholar. "On the traditional model, you don't put an idea out there until it's fully formed and perfect."¹⁵

Of course, scholars have always debated each other's ideas and will continue to do so. However, *faculty members who use social media to discuss research should keep in mind the intellectual property rights of their colleagues as well as their own academic freedom to comment on and debate new ideas.*

II. Freedom of Teaching

According to the 1940 *Statement of Principles*, "teachers are entitled to freedom in the classroom in discussing their subject." But what constitutes a classroom? The 2004 report noted that "the concept of 'classroom' must be broadened" to reflect how instruction increasingly occurs through a "medium that clearly has no physical boundaries" and that "the 'classroom' must indeed encompass all sites where learning occurs."

If anything, the boundaries of the "classroom" have only expanded in the ensuing period. It is now more common than not for even the most traditional face-to-face classes to include material offered through online learning-management systems. And the rapid development and perhaps overhyped promise of totally online education, including the explosive growth of Massive Open Online Courses (MOOCs) frequently offered by for-profit private corporations, suggest that academic freedom in the online classroom is no less critical than it is in the traditional classroom.

This report is not the place to discuss all the myriad issues of academic freedom, shared governance, intellectual property, and institutional finances raised by the spread of online education. It is critical, however, to reiterate that *a classroom is not simply a physical space, but any location, real or virtual, in which instruction occurs and that in classrooms of all types the protections of academic freedom and of the faculty's rights to intellectual property in lectures, syllabi, exams, and similar materials are as applicable as they have been in the physical classroom.*

15. Ibid.

In August 2013, the administration reassigned the teaching duties of a tenured professor in Michigan after a student anonymously videotaped part of a ninety-minute lecture, a heavily edited two-minute version of which—described by some as an "anti-Republican rant"—was then aired on a conservative Internet site, on Fox News, and on YouTube, where it was viewed more than 150,000 times. In October 2013, a Wisconsin geography professor sent her students an e-mail message explaining that they could not gain access to census data to complete a required assignment because the "Republican/Tea Party-controlled House of Representatives" had shut down the government, thus closing the Census Bureau's website. After a student posted the message on Twitter, it appeared in a local newspaper and in national conservative media, resulting in numerous complaints to the university, which sent an e-mail message to the campus distancing the institution from the comment.¹⁶

These and similar incidents demonstrate that electronic media can expand the boundaries of the classroom in new and dramatic ways. And while classroom lectures, syllabi, and even an instructor's e-mail messages to students should be considered the intellectual property of the instructor, much of what teachers distribute to students in the classroom or write in e-mail messages may legally be redistributed by students for noncommercial uses under the "fair-use" principle. Moreover, copyright does not cover expression that is not reduced to "tangible" form, including extemporaneous utterances such as those of the Michigan professor, as it might a formal lecture, a PowerPoint presentation, or written material like a syllabus.

Surreptitious recording of classroom speech and activity may exert a chilling effect on the academic freedom of both professors and students.¹⁷ Faculty

16. Colleen Flaherty, "Not-So-Great Expectations," *Inside Higher Ed*, October 18, 2013, <http://www.insidehighered.com/news/2013/10/18/professors-afforded-few-guarantees-privacy-internet-age>.

17. The AAUP has been concerned with this issue since its 1915 *Declaration of Principles on Academic Freedom and Academic Tenure*, which stated: "Discussions in the classroom ought not to be supposed to be utterances for the public at large. They are often designed to provoke opposition or arouse debate." In the 1980s, a group called Accuracy in Academia encouraged students to record professors' classroom statements and send them to the organization to be tested for "accuracy." According to a 1985 statement the AAUP issued jointly with twelve other higher education associations, "The classroom is a place of learning where the professor serves as intellectual guide, and all are

members also should be aware that electronic communications with students can easily be recirculated without the permission of either party.

It should be further noted that new teaching technologies and learning-management systems also allow faculty members and students to be monitored in new ways. Online teaching platforms and learning-management systems may permit faculty members to learn whether students in a class did their work and how long they spent on certain assignments. Conversely, however, a college or university administration could use these systems to determine whether faculty members were logging into the service “enough,” spending “adequate” time on certain activities, and the like. Such monitoring should not be permitted without the explicit and voluntary permission of the instructor involved.

Some thorny issues also surround the proliferating use of plagiarism-detection software, such as Turnitin. The benefits (and limitations) of such services are often obvious, but many faculty members are unaware that these services keep databases of student papers, and although these papers apparently are not sold individually, the entire database can be and has been sold to third parties. This practice may raise copyright concerns beyond the scope of this report, but as one 2011 study concluded, it also raises “ethical issues because it denies students notice, access, and choice about the treatment of their personal information.” That study proposed a “code of ethics” concerning the use of such services that faculty members may find helpful.¹⁸

While learning-management systems make it possible for faculty members to keep electronic teaching materials separate from scholarly, political, or personal materials often found on faculty websites, many instructors still frequently post course materials on websites alongside other content, some of which may be controversial. Students who encounter material they find disturbing while they are browsing through a faculty member’s website in search of course materials

may complain to the administration or even to the courts. While all legal material on faculty websites should enjoy the protections of academic freedom, instructors should exercise care when posting material for courses on sites that also include potentially controversial noninstructional materials.

III. Access to Electronic-Communications Technologies

Colleges and universities commonly adopt formal electronic-communications policies, which define access to the institution’s electronic-communications network and, through that network, to the Internet. Such policies generally try to balance the need, on the one hand, to protect the university’s electronic resources from outside hacking and to safeguard confidential personal and research information and, on the other hand, to provide free access to authorized users. *Although security and liability concerns may result in legitimate constraints being placed on usage, in general no conditions or restrictions should be imposed on access to and use of electronic-communications technologies more stringent than limits that have been found acceptable for the use of traditional campus channels of communication.*

An institution may, for example, acceptably require each faculty user to obtain and enter a password or to change that password periodically. The university also has an interest in protecting its faculty, staff, and students from spam and in limiting how much bandwidth an individual may use to ensure that computing resources are not overburdened or squandered. However, wholesale bans on streaming video may constitute a violation of academic freedom. Some institutions have imposed limitations on access to streaming video and audio in student dormitories, both to prevent illegal downloading of copyrighted material and to avoid overburdening the network. But such efforts should not be extended to faculty members, who may need access to such sites and materials for their teaching or research. Moreover, restrictions that deny use for “personal matters” or limit usage to “official university business” can reduce productivity and are both unnecessary and problematic, as many private businesses have learned.

In an often well-intentioned effort to reduce spam and prevent the monopolization of bandwidth, some university IT offices have proposed policies under which users of institutional electronic-communications resources must seek advance permission to send messages to large groups of recipients. But even if such

encouraged to seek and express the truth as they see it. The presence in the classroom of monitors for an outside organization will have a chilling effect on the academic freedom of both students and faculty members. Students may be discouraged from testing their ideas, and professors may hesitate before presenting new or possibly controversial theories that would stimulate robust intellectual discussion.”

18. Bastiaan Vanacker, “Returning Students’ Right to Access, Choice, and Notice: A Proposed Code of Ethics for Instructors Using Turnitin,” *Ethics and Information Technology* 13 (2011): 327–38.

measures address the problems of spam and limited bandwidth—and it is questionable whether they do—they only create a much larger and more ominous academic freedom problem because they amount to de facto prior censorship. Similarly, provisions that have been proposed in some instances to bar communications that purportedly “interfere with the mission of the university” or that violate university policies amount to unwarranted censorship of free expression.

Some states have also barred public employees, including faculty members at public colleges and universities, from employing university electronic-communications resources—for example, a university e-mail account—for political campaigning. In such states, public colleges and universities must clearly define what constitutes such activity. While a public employee may reasonably be barred, for instance, from using a university website to run for public office or raise funds for a campaign, policies that discourage or prohibit, either explicitly or through imprecise or ill-defined language, faculty members, staff members, and students from expressing political preferences clearly violate fundamental principles of academic freedom and free expression.

Electronic resources should also be made available equally to all employees, including faculty members, for the purposes of union or other organizing activity. While the National Labor Relations Board has ruled that private employers may bar employees from using employer-owned e-mail accounts for non-work-related communications, if they do permit such activity they may not discriminate against union-related e-mail use nor can they bar the use of social media for discussion of working conditions.¹⁹ Similarly, senate officers and other faculty representatives engaged in institutional governance activities should have free and unfettered access to university-controlled lists of faculty members they represent, and all faculty members should be able to comment electronically on governance issues without restriction or fear of disciplinary action.

In one 2014 incident, a faculty member in Colorado sent an e-mail message protesting proposed layoffs of faculty at his institution that offered a comparison with the 1914 Ludlow Massacre of striking Colorado miners. The university swiftly terminated the professor’s access to the institution’s e-mail system, charging that the message in question amounted to

a violent threat. Although the administration later restored access, the faculty member’s ability to distribute messages on listservs remained severely restricted. While institutions clearly have an obligation to protect members of the community from genuine threats of violence, overbroad interpretations of messages as constituting such threats, as was surely the case in this instance, can violate academic freedom, especially if the accused is denied the protections of academic due process before any adverse action has been taken.²⁰

The AAUP has upheld the right of faculty members to speak freely about internal college or university affairs as a fundamental principle of academic freedom that applies as much to electronic communications as it does to written and oral ones. This includes the right of faculty members to communicate with one another about their conditions of employment and to organize on their own behalf.

Frequently university policies attempt to delineate user “rights” and “responsibilities,” but too often the emphasis of those policies is mainly on the latter. Administrations at some institutions appear to view computer and Internet access as a lower-order faculty perquisite that may be summarily terminated. Such views need to be rejected unequivocally. Access to campus computing facilities, and through them to the Internet, represents a vital component of faculty status for most scholars and teachers, especially as cost-cutting measures have caused libraries to rely more heavily on electronic instead of print journals. While it would be naive to suggest that circumstances might never warrant withdrawal or suspension of digital access, such access may be denied or limited only for the most serious of reasons (for example, creating and unleashing a destructive virus) and only after the filing of formal charges and compliance with rigorous disciplinary procedures that guarantee the protections of academic due process to the accused individual, even where the transgression may not be so grave as to warrant dismissal or suspension.

A university’s policies must specify the infractions that might warrant such a sanction, recognizing only conduct that jeopardizes the system and the access of others. The policy should also prescribe the procedures to be followed in such a case. In exigent circumstances, a faculty member’s computer access

19. The Guard Publishing Company, d/b/a *The Register Guard*, 351 NLRB 1110 (2007), supplemental decision, 357 NLRB No. 27 (2011); *Hispanics United of Buffalo, Inc.*, 359 NLRB No. 37 (2012).

20. See <http://aaupcolorado.org/2014/01/20/colorado-conference-responds-to-csu-pueblo-president-lesley-di-mare-regarding-the-censure-of-professor-tim-mcgettigan/> for more information about the Colorado incident.

might be summarily and briefly suspended during an investigation of serious charges of abuse or misuse. Any such suspension should, however, be no longer than necessary to conduct the investigation and should be subject to prior internal faculty review.²¹

Indeed, *any restrictions that an institution may need to impose on access and usage must be narrowly defined and clearly and precisely stated in writing.* In addition, institutions should include in their electronic-communications policy a statement similar to that found in the University of California policy: “In general, the University cannot and does not wish to be the arbiter of the contents of electronic communications. Neither can the University always protect users from receiving electronic messages they might find offensive.”²²

IV. Outsourcing of Information Technology Resources

Many campuses have considered outsourcing the provision of noninstructional IT resources, such as e-mail servers and document storage. Outsourcing to a technology company can provide advantages to institutions, including lower cost and potentially better security, and help an institution focus on its core mission of education instead of on the provision of services.²³ Prior to the cloud outsourcing model, institutions operated in-house technical resources, and the information generated by their use remained within the confines of the institution. In many cloud models, however, it is assumed, sometimes without explicitly stating so, that the outside service provider can analyze how these resources are used for the provider’s own benefit. Thus cloud services proceed from a fundamentally different set of assumptions from those that govern the same services that are provided in-house at institutions.

Electronic communications are vulnerable to a variety of threats. They may contain private or confidential information concerning the development of new drugs, classified research, export-controlled research, and advice to clients visiting institutionally operated legal

clinics. They may be targets of government surveillance. Institutions also have special duties, including legal and ethical obligations, among others, to protect information about students.

Outsourcing presents several identifiable risks. Outsource providers may be motivated to offer services that they can develop and serve “at scale” and that do not require special protocols. These services may have been designed for businesses, and thus employees and the services themselves may not be tailored to the special context of higher education. In effect, outsourcing may undermine governance, as the provider may effectively set and change policy without consulting campus IT leadership or the faculty.²⁴

Several approaches can strengthen an institution’s posture on and commitment to academic freedom even in outsourced situations:

1. Institutions should formally involve the faculty in decisions to outsource core electronic-communications technologies.
2. The selection of an outsource provider must take into consideration other factors besides price, including institutional needs, legal and ethical obligations, and the norms and mission of the institution.
3. IT leadership should carefully evaluate the outsource provider’s ability to gain access to content and traffic data. It is important to note that even if a provider promises not to circulate usage data to advertisers, that promise does not foreclose the analysis of electronic-communications data for other purposes, including commercial ones.
4. Faculty members should encourage campus IT leadership to collaborate with other institutions in jointly identifying problems and mitigating risks.
5. IT leadership should carefully evaluate the outside provider’s uses, processing, and analysis of user content and transactional data. All uses of data should be reviewed by the institution and specifically authorized.
6. IT leadership should follow policy decisions and changes of outsource providers and notify faculty members when these decisions implicate governance issues.

21. AAUP-recommended procedures for the imposition of sanctions, whether minor or severe, may be found in Regulation 7 of the *Recommended Institutional Regulations on Academic Freedom and Tenure*. See <http://aaup.org/report/recommended-institutional-regulations-academic-freedom-and-tenure>.

22. University of California Electronic Communications Policy, <http://policy.ucop.edu/doc/7000470/ElectronicCommunications>.

23. Outsourcing of instruction through online education offered by outside providers, however, is a quite different matter.

24. The abbreviation IT is used here and subsequently in reference to those university offices and functions variously called “information technology,” “instructional technology,” or “institutional technology.”

7. IT leadership should consider technical approaches to reduce “vendor lock-in” and, where possible, to mask content and traffic data from these providers.
8. Contracts with outside vendors of electronic-communications services should explicitly reflect and be consistent with both internal institutional policies regarding such communications and applicable federal and state laws.

V. Unwarranted Inference of Speaking for or Representing the Institution

The 1940 *Statement of Principles* cautions that faculty members “should make every effort to indicate that they are not speaking for the institution” when in fact they are not doing so. The meaning of that constraint is clear enough in the print world. One may refer to one’s faculty position and institution “for identification purposes only” in ways that create no tenable inference of institutional attribution. In the digital world, however, avoiding an inappropriate or unwarranted inference may be more difficult.

The very nature of the Internet causes attribution to be decontextualized. A statement made by a faculty member on a website or through e-mail or social media may be recirculated broadly, and any disclaimer that the institution bears no responsibility for the statement may be lost. What about statements made on Twitter, which limits communications to a mere 140 characters? It is hardly reasonable to expect a faculty member to indicate on every tweet that she or he is not speaking for the institution. And Facebook pages are part of a fixed template that does not allow for a banner disclaimer in a readily visible spot on an individual’s main page.

In late 2012, a Florida professor posted on his blog a controversial statement expressing skepticism about official accounts concerning the murder of students at Sandy Hook Elementary School in Connecticut that year. The blog included this statement: “All items published herein represent the views of [the professor] and are not representative of or condoned by [the university].” Yet the administration claimed that even by mentioning his affiliation the professor had failed to distinguish adequately his personal views from those of the university and thereby damaged the institution. As a result, he was issued a formal reprimand.²⁵

25. Scott Jaschik, “Reprimand for a Blog,” *Inside Higher Ed*, April 12, 2013, <http://www.insidehighered.com/news/2013/04/12/florida-atlantic-reprimands-professor-over-his-blog>.

In a letter to the university president, the AAUP staff wrote that the professor “may indeed have posted highly controversial statements on his website; but it is such speech, in particular, that requires the protection of academic freedom. . . . In our time, when the Internet has become an increasingly important vehicle for free intellectual and political discourse around the world, the [university] administration’s action, if allowed to stand, sets a precedent that potentially chills the spirited exchange of ideas—however unpopular, offensive, or controversial—that the academic community has a special responsibility to protect.”

Institutions may reasonably take steps to avoid inferences of institutional attribution or agreement in ways that print communications might not warrant. Disclaimers may be useful, though their value is often exaggerated. However, the nature of electronic communication itself tends to decontextualize meaning and attribution, and *faculty members cannot be held responsible for always indicating that they are speaking as individuals and not in the name of their institution, especially if doing so will place an undue burden on the faculty member’s ability to express views in electronic media.*

VI. Social Media

The 2004 report essentially assumed that electronic communications were either personal (if not wholly private), as with e-mail messages, or public (or open access), as with websites, blogs, or faculty home pages. The growth of social media calls such a distinction into question.

Faculty use of social media is increasing. In one survey of eight thousand faculty members, 70 percent of all those responding reported having visited a social-media site within the previous month for personal use, a rate that rose to 84 percent when those who use social-media sites less frequently than monthly are added. Of greater relevance to the concerns of this report, more than 55 percent said they had made professional use of social media outside the classes they teach on at least a monthly basis, and 41 percent reported having used social media in their teaching.²⁶

Social-media sites blur the distinction between private and public communications in new ways. Unlike

26. The survey was conducted by the Babson Survey Research Group on behalf of Pearson Learning Solutions. See Jeff Seaman and Hester Tinti-Kane, *Social Media for Teaching and Learning* (Boston: Pearson Learning Solutions, 2013), <http://www.pearsonlearningsolutions.com/higher-education/social-media-survey.php>.

blogs or websites, which are generally accessible to anyone with Internet access who goes in search of the site, social-media sites offer the appearance of a space that is simultaneously private and public, one that is on a public medium (the Internet) and yet defined by the user through invitation-only entry points, such as Facebook “friend” requests, and a range of user-controlled privacy settings.

The extent of the privacy of such sites, however, is at the least uncertain and limited, because it is dependent not only on the individual’s privacy-setting choices and those of the members in the individual’s network but also on the service provider’s practices of analyzing data posted on the network. Moreover, social-media providers often modify their policies on privacy and access in ways that their users do not always fully comprehend. Faculty members may believe that their Facebook pages are more secure or private than a personal web page, but that is not necessarily true. The seemingly private nature of sites like Facebook, Flickr, or Pinterest can lead individuals to let their guard down more readily, because they may think they are communicating only to handpicked friends and family members, when in fact those friends and family members may be sharing their utterances with other unintended recipients without the individual’s knowledge.²⁷ These sites are not closed portals, despite what their account controls may suggest. Likewise, an acquaintance may post private information about a faculty member’s personal life without that faculty member’s knowledge (or vice versa), and the viral nature of social-media sites may then make that comment more public than the original poster intended.

There is evidence that such concerns are not unwarranted. One prominent example was the 2010 case of a Pennsylvania professor who was suspended from her faculty position and escorted off campus by police after a student reported to the administration one of her Facebook status updates (“Had a good day today. Didn’t want to kill even one student.”). The professor alleged that she did not know that anyone other than her personal Facebook network could gain access to her status updates.

In another example, also from 2010, the administration at a Catholic theological seminary summarily dismissed an assistant professor of church history and languages who was also the library director, reportedly because of a comment he had posted on a former

student’s Facebook page a month earlier, predicting that “one day the Catholic Church will . . . approve of openly gay priests.” In June 2013, an evolutionary psychology professor sparked an uproar after he told his Twitter followers that overweight students are not cut out for PhD programs. The professor quickly deleted the tweet, but he faced considerable criticism, especially after he tried to justify his comment by claiming it was part of a research project. The administration disciplined him for what he had written.²⁸

In September 2013, the administration of Johns Hopkins University asked a professor, a prominent authority on Internet security and privacy issues, to remove a blog post, claiming that the post contained a link to classified information and used the logo of the National Security Agency (NSA) without authorization. The post was about NSA privacy debates and encryption engineering. The university has a number of ties with the NSA. The administration withdrew the request after the professor discussed it on Twitter and in the media.²⁹

At the University of Kansas, also in September 2013, a journalism professor, responding to a shooting incident at the Washington Navy Yard in Washington, DC, tweeted a comment about gun control that many gun advocates found offensive. He was barraged with hate messages and death threats, and several legislators called for his dismissal. Although the university publicly reaffirmed its commitment to his freedom of speech, he was suspended to “avoid disruption.” However, a suspension designed to protect a faculty member from potentially violent responses to a controversial statement can quite easily become a punishment for the content of the statement, which in this instance was clearly protected by both the First Amendment and principles of academic freedom.³⁰

Many faculty members have decided that they will simply not join Facebook or similar sites. Others have decided that it would be improper ever to connect

28. Lauren Ingeno, “#Penalty,” *Inside Higher Ed*, August 7, 2013, <http://www.insidehighered.com/news/2013/08/07/fat-shaming-professor-faces-censure-university>.

29. “Hopkins (Briefly) Asks Professor to Remove Blog Post,” *Inside Higher Ed*, September 10, 2013, <http://www.insidehighered.com/quicktakes/2013/09/10/hopkins-briefly-asks-professor-remove-blog-post>.

30. Scott Rothschild and Ben Unglesbee, “Professor Getting Death Threats over NRA Tweet, Colleagues Support His Free-Speech Rights,” *Lawrence Journal-World*, September 23, 2013, <http://www2.ljworld.com/news/2013/sep/23/firestorm-over-guths-comment-continues-university/>.

27. Social-media communications may also be used by the social-media site itself for data-mining purposes.

with a student on a social network. Most colleges and universities have yet to formulate policies regarding social-media usage by faculty members. At institutions where such policies exist, the focus is frequently on the university's reputation and not on the faculty's academic freedom. So, for instance, the University of South Carolina Upstate's "Social Media Policy and Procedure Guidelines" includes the following: "The purpose of the Social Media Policy is to ensure accuracy, consistency, integrity, and protection of the identity and image of the University of South Carolina Upstate by providing a set of required standards for social-media content from any department, school, facility, organization, entity, or affiliate."³¹ It is unclear whether or to what extent this policy applies to individual faculty members.

The incident cited above at Kansas prompted the Kansas Board of Regents in December 2013 to adopt new rules under which faculty members and other employees may be suspended or dismissed for "improper use of social media." The new policy defined social media as "any facility for online publication and commentary" and covered but was "not limited to blogs, wikis, and social networking sites such as Facebook, LinkedIn, Twitter, Flickr, and YouTube." This definition could arguably include any message that appears electronically, including e-mail messages and online periodicals and books. The policy defined "improper use of social media" in extremely broad terms, including communications made "pursuant to . . . official duties" that are "contrary to the best interest of the university," as well as communication that "impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker's official duties, interferes with the regular operation of the university, or otherwise adversely affects the university's ability to efficiently provide services."³²

The AAUP quickly condemned the policy as "a gross violation of the fundamental principles of academic freedom that have been a cornerstone of American higher education for nearly a century. Not

only faculty members, but students and members of the general public benefit from the free exchange of information and ideas that are at the heart of the academic enterprise, whether conducted orally, in print, or electronically."³³ In the face of widespread criticism, the Board of Regents agreed to work with campus leaders to revise the policy, but it was not withdrawn.

This report recommends that each institution work with its faculty to develop policies governing the use of social media. Any such policy must recognize that social media can be used to make extramural utterances and thus their use is subject to Association-supported principles of academic freedom, which encompass extramural utterances. As Committee A previously noted regarding extramural utterances, "Professors should also have the freedom to address the larger community with regard to any matter of social, political, economic, or other interest, without institutional discipline or restraint, save in response to fundamental violations of professional ethics or statements that suggest disciplinary incompetence."³⁴

Obviously, the literal distinction between "extramural" and "intramural" speech—speech outside or inside the university's walls—has little meaning in the world of cyberspace. But the fundamental meaning of extramural speech, as a shorthand for speech in the public sphere and not in one's area of academic expertise, fully applies in the realm of electronic communications, including social media.

VII. FOIA and Electronic Communications

In several recent instances, outside groups or governmental agencies have sought to obtain records of faculty members' electronic communications. In 2011, Virginia's attorney general Ken Cuccinelli demanded that the University of Virginia turn over all e-mail messages and other communications related to and produced by former professor Michael Mann, a prominent scientist of climate change, on the grounds that these were public records. The university successfully resisted the request, characterizing the investigation as "an unprecedented and improper governmental intrusion into ongoing scientific research," and charged Cuccinelli with targeting Mann because the attorney general "disagrees with his academic research regarding

31. University of South Carolina Upstate, "Social Media Policy and Procedure Guidelines," <https://www.uscupstate.edu/uploadedFiles/Offices/Communications/social/Social%20Media%20Policy%20Approved.pdf>.

32. Kansas Board of Regents, "Policy Chapter II C Suspensions," http://www.kansasregents.org/policy_chapter_ii_c_suspensions.

33. AAUP, "AAUP Statement on the Kansas Board of Regents Social Media Policy," <http://www.aaup.org/file/KansasStatement.pdf>.

34. "Protecting an Independent Faculty Voice: Academic Freedom after *Garcetti v. Ceballos*," *Academe*, November–December 2009, 88.

climate change.”³⁵ But no sooner had this effort been thwarted, than a private group, the American Tradition Institute (ATI), filed a FOIA request that mirrored the attorney general’s subpoena.

The AAUP and the Union of Concerned Scientists (UCS) filed a joint amicus brief in support of UVA and Professor Mann, urging that “in evaluating disclosure under FOIA, the public’s right to know must be balanced against the significant risk of chilling academic freedom that FOIA requests may pose.” ATI’s request, the brief stated, “strikes at the heart of academic freedom and debate.” ATI justified its broad intrusion by claiming that its purpose in seeking the records was to “open to public inspection the workings of a government employee, including the methods and means used to prepare scientific papers and reports that have been strongly criticized for technical errors.” The AAUP-UCS brief argued, however, that “in the FOIA context, the public’s right to information is not absolute and courts can and do employ a balancing test to weigh the interest of the public’s right to know against the equally important interests of academic freedom.”³⁶

Freedom of information laws are generally beneficial: they enhance public knowledge and debate on the workings of government agencies, including public universities. But as the AAUP-UCS amicus brief pointed out, in some situations a balance must be struck between competing interests. Likewise, the Supreme Court recognized as early as 1957 that politically motivated investigations of universities and scholars can have a chilling effect on academic freedom.³⁷ Allowing fleeting, often casual e-mail exchanges among scholars to be opened to inspection by groups bent on political attack implicates both privacy and academic freedom concerns. As Committee A previously noted in its report *Access to University Records*, “The presumption of confidentiality is strongest with respect to individual privacy rights; the personal notes and files of teachers and scholars; and proposed and ongoing research, where the dangers of external pressures and publicity can be fatal to the necessary climate of academic freedom.”³⁸

For example, in 2011, the Republican Party of Wisconsin filed a FOIA request with the University of Wisconsin, demanding that the university release e-mail messages from Professor William Cronon, then president of the American Historical Association, who had criticized the Republican governor’s “assault on collective bargaining rights.” The administration agreed to release some of Professor Cronon’s e-mail messages, excluding “private e-mail exchanges among scholars that fall within the orbit of academic freedom and all that is entailed by it.” The administration also excluded messages that contained student information and those “that could be considered personal pursuant to Wisconsin Supreme Court case law.”

The University of Wisconsin’s then-chancellor Carolyn Martin wrote:

When faculty members use e-mail or any other medium to develop and share their thoughts with one another, they must be able to assume a right to the privacy of those exchanges, barring violations of state law or university policy. Having every exchange of ideas subject to public exposure puts academic freedom in peril and threatens the processes by which knowledge is created. The consequence for our state will be the loss of the most talented and creative faculty who will choose to leave for universities where collegial exchange and the development of ideas can be undertaken without fear of premature exposure or reprisal for unpopular positions.

Unfortunately, this position has not always been endorsed by other authorities. In June 2012, *The American Independent News Network* sought documents relating to a study by Professor Mark Regnerus of the University of Texas at Austin. The university asserted that the documents were exempt from disclosure under a section of the Texas Education Code, which covers “technological and scientific information” developed by an institution that can be sold, traded, or licensed for a fee. Moreover, it asserted that the records contained information about third parties. The state attorney general’s office rejected these claims, however, and in February 2013 the university released the requested records. By April 2013, *The American Independent* was reporting on material that Regnerus had received. A Florida court then ruled that the University of Central Florida also must share the e-mail messages of Professor James Wright, editor of the journal that published Regnerus’s study. The

35. For a summary of key events in the Mann case, see <http://www.aaup.org/our-programs/legal-program/legal-roundup-2012#iii>.

36. Ibid.

37. *Sweezy v. New Hampshire*, 354 US 234, 250 (1957). (“The essentiality of freedom in the community of American universities is almost self-evident. . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust.”)

38. *Academe*, January–February 1997, 47.

court rejected the university's claims that the e-mail communications are not university records.³⁹

It is apparent, then, that faculty members at public universities in Texas, Florida, and other states without scholarly exemption from public-records laws should be aware that titles of books they request from the library, peer-review comments they offer and solicit, and tentative ideas they share with colleagues may be matters for public scrutiny under state FOIA laws.⁴⁰

In this light, faculty members should be advised to segregate, as much as possible, personal from professional correspondence and also segregate correspondence that concerns university business from other professional correspondence, such as work for scholarly publications and organizations. Moreover, given the uncertainty surrounding state FOIA laws, faculty members at public colleges and universities should consider the possibility that every e-mail message they send and receive might become public. Lastly, when such requests are made, faculty members should immediately seek the advice and support of their union (if one exists at their institution) or of legal counsel.

VIII. Defamation

Faculty blog posts, although public and open to all, may be targets of libel actions. In 2013, in separate incidents, two university librarians were sued by the Edwin Mellen Press and its founder, who claimed that negative comments about the press the librarians had posted on the Internet constituted libel. In the first case, Mellen sued an associate librarian at McMaster University in Ontario over a post he had written in 2010, when he was a member of the library faculty at Kansas State University, that described Mellen as a "vanity press" with "few, if any, noted scholars serving as series editors," benefiting largely from librarians not returning books sent for approval at "egregiously high prices." The librarian stated, "As a qualified

and experienced librarian, I was sharing a professional opinion for consumption by peers."⁴¹ Although Mellen dropped that suit, another suit by its founder continued. Mellen threatened legal action against the interim library dean at the University of Utah, after he criticized Mellen, in part for its action against the McMaster librarian. Mellen's threats prompted the Society for Scholarly Publishing to remove the Utah dean's posts from its blog, *The Scholarly Kitchen*. The Mellen Press's litigious behavior is clearly incompatible with principles of academic freedom.⁴²

Because electronic communications are accessible almost instantaneously around the globe, scholars need to be aware that statements they post on blogs or websites or that they communicate by other electronic means may be subject to the laws of other countries. This fact was highlighted in 2013, when a publisher in India announced its intent to sue for libel a librarian at the University of Colorado at Denver, whose popular blog contains a running list of open-access journals and publishers he deems questionable or predatory. On the blog, the librarian accused the Indian publisher of spamming scholars with invitations to publish, quickly accepting their papers, then charging them a publishing fee of nearly \$3,000 after a paper was accepted. A letter from the publisher's attorney sought \$1 billion in damages and warned that the librarian could be imprisoned for up to three years under India's Information Technology Act.⁴³

Such a suit would likely have little chance of success in US courts, but some other countries' libel laws are less stringent, although in India allegations of misuse of the Information Technology Act have led the Indian government to modify its rules to make them stricter. The all-too-common practice of pursuing libel judgments in other countries, most often England or Wales, where there is a presumption that derogatory statements are false, has been dubbed "libel tourism." In response, the US Congress in 2010 unanimously passed the SPEECH Act, which made foreign libel judgments unenforceable in US courts, unless those

39. Zachary M. Schrag, "Happy Goldfish Bowl to You, Professor," *Zachary M. Schrag* (blog), November 28, 2013, <http://zacharyschrag.com/2013/11/28/happy-goldfish-bowl-to-you-professor/>.

40. A recent survey of how state FOIA laws govern requests for material from public universities found that only twenty-five states offer various degrees of exception for academic materials, with the best statutes in Alaska, Pennsylvania, and Georgia. See Ryan C. Fairchild, "Giving Away the Playbook: How North Carolina's Public Records Law Can Be Used to Harass, Intimidate, and Spy," *North Carolina Law Review* 91 (2013): 2117–78. See also the memorandum about state FOIA laws available at http://www.law.gwu.edu/News/2013-2014events/Documents/ATivUVA/State_FOI_List.pdf.

41. Colleen Flaherty, "Price of a Bad Review," *Inside Higher Ed*, February 8, 2013, <http://www.insidehighered.com/news/2013/02/08/academic-press-sues-librarian-raising-issues-academic-freedom>.

42. Ry Rivard, "Call In the Lawyers," *Inside Higher Ed*, April 1, 2013, <http://www.insidehighered.com/news/2013/04/01/mellen-press-continues-its-legal-maneuvers-against-critics>.

43. Jake New, "Publisher Threatens to Sue Blogger for \$1-Billion," *Chronicle of Higher Education*, May 15, 2013, <https://chronicle.com/article/Publisher-Threatens-to-Sue/139243/>.

judgments are consistent with the First Amendment.⁴⁴ However, a judgment unenforceable in the United States might still be enforceable in the country where it was filed and which a scholar may need to visit. Those who not only communicate and publish in other countries but also travel there for research or teaching should be aware of the legal environment governing their expression in those countries.

IX. Privacy of Electronic Communications

Electronic communications have greatly enhanced the ability to teach, to learn, and to inquire. Such technologies have made collaboration over great distances much more efficient and enabled people to work effectively at any hour and in almost any place. At the same time, the structure of electronic-communications technologies can constrain inquiry. Such technologies are designed to document communications and thus amass records of intellectual activities. These records can distort interactions because electronic communications often lack the subtlety of in-person exchanges. They can also be used to investigate individuals in ways that were impossible just a decade ago. *Efforts to protect privacy in electronic communications are an important instrument for ensuring professional autonomy and breathing space for freedom in the classroom and for the freedom to inquire. Although privacy is framed as an individual right, group or associational privacy is also important to academic freedom and to ensuring a culture of trust at an institution.*

When Congress passed legislation to govern the privacy of e-mail and other electronic-communications technologies, these technologies were used primarily by businesses. As a result, some drew the conclusion that the degree of privacy appropriate to digital communications is substantially lower than that expected for traditional media. In the intervening years, however, the use of these technologies has blossomed among businesses and individuals alike.

The nature of a communications medium may take some toll on privacy. An institutional computing network legitimately “backs up” some portion of each day’s e-mail traffic. IT staff members in the normal course of events have a technical degree of access to electronic messages that would be unthinkable for personnel in the university mailroom or the campus telephone network. By its very nature, electronic communication incurs certain risks that have no print

counterpart—for example, the potential invasion of the system by hackers, despite the institution’s best efforts to discourage and even prevent such intrusions. Some of these risks are simply part of the reality of the digital age and a result of our extensive reliance on computer networks for the conduct of academic discourse. At the same time, some privacy risks are the product of business imperatives rather than technical necessities.

Privacy risks are likely to increase as institutions are called on to address more aggressively the security of college and university networks, as researchers increasingly use digital instead of printed resources, and as distance education and electronic communications technologies are more generally relied on to execute institutional missions.

Faculty members also bear responsibility for protecting privacy in electronic communications. With the proliferation of BYOD policies, sensitive institutional data are sometimes stored on consumer-level devices. Thought must be given to the storage of student and research data on personal and portable devices in case these devices are compromised, lost, or stolen.

The sensitivity of academic communications and the wide range of scholarly purposes for which digital channels are used warrant a markedly higher level of protection. A fully responsive policy would reflect at least these criteria:

1. The policy should recognize the value of privacy as a condition for academic freedom and the benefits that privacy and autonomy bring to the individual, to groups, and to the culture of an institution. The institution should recognize that faculty members have a reasonable expectation of privacy in their electronic communications and traffic data.
2. The policy should clearly state that the university does not examine or disclose the contents of electronic communications and traffic data without the consent of the individual participating in the communication except in rare and clearly defined cases. Calls to examine electronic communications or transactional information should consider the special nature of the academy, weigh whether the examination would have disproportionately chilling effects on other individuals or the institution generally, and contemplate alternative or less invasive approaches to preserve privacy in communications.
3. Employees who operate and support electronic-communications resources regularly monitor

44. 124 Stat. 2480–84. SPEECH is the acronym for “Securing the Protection of our Enduring and Established Constitutional Heritage.”

transmissions for the purpose of ensuring reliability and security of those resources and services and, in that process, may observe certain transactional information or the contents of electronic communications. Except in specifically defined instances or where required by law, they should not be permitted to seek out transactional information or contents when those are not germane to system operations and support or to disclose or otherwise use what they have observed.

4. Faculty members should be involved in the setting of institutional policies surrounding the monitoring of and access to content and traffic data in electronic communications. Policies on electronic communications should enumerate narrow circumstances where institutions can gain access to traffic logs and content unrelated to the technical operation of these services. If a need arises to get access to electronic-communications data, a designated university official should document and handle the request, and all parties to the communication should be notified in ample time for them to pursue protective measures—save in the rare case where any such delay would create imminent risk to human safety or university property. Accessed data may not be used or disseminated more widely than the basis for such exceptional action may warrant.
5. As reliance on electronic-communications technologies grows, more faculty online activities will be subject to being logged. Institutions are encouraged to use several strategies encapsulated by the idea of “privacy by design” to reduce the risk to free inquiry and association from this logging. These strategies include creating logs at the aggregate level, where individuals are not identifiable, when possible; carefully controlling access to these logs; removing identifying information from them; and deleting them according to some reasonable retention policy. These strategies must, of course, be balanced to accommodate legitimate security obligations.

Such principles as these, designed as they are to ensure the privacy of electronic communications, will require careful and extensive study by each institution and the tailoring of specific responses consistent not only with institutional needs and values but also

with state and local law. At the same time, it must be acknowledged that whatever legal and policy protections may be available, all faculty members should recognize that in practice the privacy of electronic communications cannot always be protected. In addition to the issues raised previously about FOIA laws, faculty members need to recognize that even encrypted messages can be hacked and even the “safest” firewalls can be breached. Moreover, even the most sensitive and private e-mail messages, social-media postings, and texts can be forwarded to countless people instantaneously.

X. The Role of Faculty and Shared Governance

Some faculty members mistakenly believe that institutional IT policies are strictly under the purview of technology offices, which are thought to possess the requisite expertise to address network security, provision of bandwidth, outsourcing, and similar issues. But the interests of faculty members are not always consonant with those of IT offices. The latter may be charged, for example, with conserving resources, while faculty members need broad access to information and ideas.

Some technology offices may be tempted to employ software features “just because they can,” without full consideration of their implications for academic freedom and learning. For example, recent learning-management software allows an institution to disable features that invade privacy. But some technology offices may have a cavalier attitude toward privacy or simply desire to offer all the “bells and whistles” available. Electronic communications are too important for the maintenance and protection of academic freedom to be left entirely to such offices. Faculty members must participate, preferably through representative institutions of shared governance, in the formulation and implementation of policies governing electronic-communications technologies.

However, in order for the faculty to play an active and constructive role in the development and execution of such policies, those faculty members who participate in such work need to become more informed about both the technical issues involved and the broader academic-freedom implications of their decisions. This report is designed to facilitate that process.

Specifically, we recommend the following:

1. Policies and practices regarding information technology should be within the purview of

a representative faculty committee. Any new policy or major revision of an existing policy should be subject to approval by a broader faculty body such as a faculty senate.

2. The faculty committee may be drawn from the faculty senate or elected as an ad hoc committee by the faculty; its members should not be appointed by the administration.
3. Faculty members participating in the committee should be familiar with and informed about relevant developments in communications technology so that they are able to recognize potential conflicts with principles of academic freedom.
4. The members of the faculty committee should be provided with all relevant contracts and technical materials necessary to make informed decisions about policies governing electronic communications.
5. Whenever policies are proposed or administrative actions taken with respect to information technology that may directly or indirectly implicate academic freedom, faculty members must be consulted.
6. In those institutions with collective bargaining, faculty unions should seek to include in their collective bargaining agreements protections for academic freedom in electronic communications as described in this report. ■■

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HENRY REICHMAN (History)

California State University, East Bay, *chair*

ASHLEY DAWSON (English)

City University of New York College of Staten Island

MARTIN GARNAR (Library)

Regis University

CHRIS HOOFNAGLE (Law)

University of California, Berkeley

RANA JALEEL (American Studies)

New York University

ANNE KLINEFELTER (Law and Library)

University of North Carolina

ROBERT M. O'NEIL (Law)

University of Virginia

JENNIFER NICHOLS, *staff*

The Subcommittee

From: Nick Burbules [REDACTED]
Sent: Sunday, September 07, 2014 7:08 AM
To: Phyllis Wise; I Adesida
Subject: DRAFT
Attachments: VONC.docx

We are working on this. Just FYI for now.

Happy to talk.

From: Nick Burbules <[REDACTED]>
Sent: Sunday, September 07, 2014 5:45 PM
To: Ilesanmi Adesida
Cc: Phyllis Wise
Subject: Re: DRAFT

Thanks Ade

That is part of my purpose. People are throwing this term around far too lightly.

And it's not fair to the Chancellor

I've revised this and sent it to the Senate listserv

As I read the statutes, LAS can take this appeal to the Board if they want.

On Sunday, September 7, 2014, Ilesanmi Adesida <[REDACTED]> wrote:
Thanks, Nick, for the email. While I can understand the disagreement and even the anger, I don't quite understand the vote of no confidence in this matter (VONC). VONC means something concrete worldwide! A VONC in the parliament in England means that the occupant of 10 Downing must pack their bags! This is a serious issue and I hope that it is not lost on our colleagues.

Ade

On Sun, Sep 7, 2014 at 7:07 AM, Nick Burbules <[REDACTED]> wrote:
We are working on this. Just FYI for now.

Happy to talk.

From: Ilesanmi Adesida <[REDACTED]>
Sent: Monday, September 08, 2014 4:51 PM
To: Andreas Cangellaris
Subject: Re: Meeting Tomorrow

I think some votes of confidence will be useful by Departments also.

On Mon, Sep 8, 2014 at 9:57 AM, Andreas Cangellaris <[REDACTED]> wrote:
What in the world is going on? Engineering will be happy to revolt. Just give me the sign! Enough!

Sent from my iPhone

Begin forwarded message:

From: "Slater, Janet S" <slaterj@illinois.edu>
Date: September 8, 2014 at 9:38:03 AM CDT
To: "Cangellaris, Andreas C" <cangella@illinois.edu>, "Colombo, John D" <jcolombo@illinois.edu>, "Constable, Peter D" <constabl@illinois.edu>, "DeBrock, Lawrence M" <ldebrock@illinois.edu>, "Drasgow, Fritz" <fdrasgow@illinois.edu>, "Feser, Edward" <feser@illinois.edu>, "Gallagher, Tanya Montaleone" <tmgallag@illinois.edu>, "Hauser, Robert J" <r-hauser@illinois.edu>, "Kalantzis, Mary" <kalantzi@illinois.edu>, "Korr, Wynne Sandra" <wkorr@illinois.edu>, "Lubienski, Sarah Theule" <stl@illinois.edu>, "Mariscalco, Michele" <mmmaris@illinois.edu>, "Renear, Allen H" <renear@illinois.edu>, "Wilkin, John P" <jpwilkin@illinois.edu>, "Wilson, Barbara Jan" <bjwilson@illinois.edu>
Subject: Meeting Tomorrow

Dear Deans -

The message that was drafted last Wednesday has not been sent out for final review to this group. I know Barb Wilson has talked to several of you. She feels she cannot sign the letter at this time since more LAS departments have voted no-confidence. In addition, it is not clear whether a letter from the deans would be helpful or hurtful at this stage.

It is urgent for us to determine how we can be most effective in countering the view that the Chancellor should step down. We need to find a way to speak with one voice on this issue over the next couple of weeks. I suggest we meet on 8:00 a.m. on Tuesday, September 9, to discuss next steps, especially in light of the Board of Trustees meeting on Thursday.

I will be in touch with you later this afternoon with the location.

Jan

Jan S. Slater, Ph.D.

Dean

Professor of Advertising

College of Media

University of Illinois

119 Gregory Hall

Urbana, IL 61801

217.333.2350

www.media.illinois.edu

To: Jose Ignacio Hualde
From: Joyce Tolliver
Subject: email
Sent: Mon Sep 08 21:01:25 2014
Importance: Normal

On Sep 7, 2014, at 2:37 PM, [REDACTED] wrote:

Dear Trustee Kennedy:

I will be brief: please reverse your cowardly decision to “un-hire” Steven Salaita in the name of justice, humanity, civility, and in defense of academic freedom. Your actions have already damaged your great University so deeply that it is difficult to imagine reversing that damage, but this would be one small step. The world is watching. If you take seriously your capacity as a trustee, then please act in compliance with the expectation such a position demands of you.

On a personal note, several years ago, I was offered the position of [REDACTED] at Illinois [REDACTED]. The actions of the University demonstrate in no uncertain terms that I never made a better decision than to turn that offer down. I only hope that the stellar program he has painstakingly built will not be completely undone.

[REDACTED]

----- Forwarded message -----

From: Chris Kennedy <[REDACTED]>
Date: Sun, Sep 7, 2014 at 3:27 PM
Subject: Re: Steven Salaita
To: [REDACTED] >

You were not brief enough

Christopher G. Kennedy

E – [REDACTED]
[REDACTED]

[OFFICE NUMBER REDACTED BY TENURED RADICAL]
[CELL PHONE NUMBER REDACTED BY TENURED RADICAL]

--

Joyce Tolliver

To: Jose Ignacio Hualde
From: Joyce Tolliver
Subject: Fwd: departmental statements on the Salaita case
Sent: Tue Sep 09 22:30:24 2014
Importance: Normal

HON!!!! Mua mua mua mua y MUA!!!

----- Forwarded message -----

From: Tolliver, Joyce L <joycet@illinois.edu<mailto:joycet@illinois.edu>>
Date: Tue, Sep 9, 2014 at 10:29 PM
Subject: Fwd: departmental statements on the Salaita case
To: joyce tolliver [REDACTED] >>

Begin forwarded message:

From: "Hualde, Jose Ignacio" <jihualde@illinois.edu<mailto:jihualde@illinois.edu>>
Subject: Fwd: departmental statements on the Salaita case
Date: September 9, 2014 at 7:05:35 PM CDT
To: "Tolliver, Joyce L" <joycet@illinois.edu<mailto:joycet@illinois.edu>>

FYI

Begin forwarded message:

From: "Hualde, Jose Ignacio" <jihualde@illinois.edu<mailto:jihualde@illinois.edu>>
Subject: Re: departmental statements on the Salaita case
Date: September 9, 2014 at 7:04:22 PM CDT
To: "Mathy, Jean-Philippe R" <jmathy@illinois.edu<mailto:jmathy@illinois.edu>>
Cc: Silvina Andrea Montrul <montrul@illinois.edu<mailto:montrul@illinois.edu>>, "Yoon, Hye Suk James" <jyoon@illinois.edu<mailto:jyoon@illinois.edu>>

Dear Jean-Philippe,

The fact that you are forwarding these statements can be interpreted as meaning that you endorse them, as School Director. I hope you can clarify this point. I also hope you can send another message to all faculty, students and staff in the School making clear that there are other faculty members in the School, who, regardless of their view on the hiring or not hiring of Dr Salaita, strongly support Chancellor Wise and President Easter and are appalled by calls for their resignation.

I am copying my two Department Heads.

Regards,

José Ignacio Hualde

On Sep 9, 2014, at 9:31 AM, Schaefer, Marlynn
<axlschae@ILLINOIS.EDU<mailto:axlschae@ILLINOIS.EDU>> wrote:

Dear faculty, staff and students,

Four SLCL departments have recently issued statements in response to the University's decision to rescind the appointment offer made to Professor Steven Salaita last October (see attached documents). Three more departments

are scheduled to meet this week to discuss the case and decide whether they will issue a statement of their own.

Best,

Jean-Philippe Mathy

<Declaration of the Department of French and Italian.docx><Mail Attachment.eml><Mail Attachment.eml><Mail Attachment.eml>

Joyce Tolliver

Associate Professor of Spanish, Translation Studies, and Gender & Women's Studies
Associate Head, Dept. of Spanish and Portuguese
University of Illinois
Urbana IL 61801
217-244-6508<tel:217-244-6508>
<http://www.sip.illinois.edu/people/joycet>

--

Joyce Tolliver

To: Academic Senate; Campbell, R H
From: Campbell, R H
Subject: Senate Committee on Academic Freedom and Tenure
Sent: Wed Sep 10 14:54:58 2014
Importance: Normal

Dear Colleagues:

David O'Brien, Chair, Senate Committee on Academic Freedom and Tenure (CAFT) gave me an update from the the Committee on Academic Freedom and Tenure which has a charge to serve as an authorized faculty group to safeguard the academic freedom of the faculty and tenure status, and to assure that unit governance is in accord with the University Statutes and unit bylaws. http://senate.illinois.edu/bylaws_af.asp

The Senate Committee on Academic Freedom and Tenure has appointed a subcommittee to investigate the events that led to the University administration's recent decision not to appoint Steven Salaita. I include the text of his communication for more detail.

Thanks
Roy

Roy Campbell
Sohaib and Sara Abbasi Professor of Computer Science
Siebel Center
201 N Goodwin Av, Urbana, IL 61801-2302
Tel 217-333-0215 Email rhc@illinois.edu

Release to the Faculty Senate and to the Administration of the University of Illinois at Urbana-Champaign from the Senate Committee on Academic Freedom and Tenure

The Senate Committee on Academic Freedom and Tenure has appointed a subcommittee to investigate the events that led to the University administration's recent decision not to appoint Steven Salaita. The subcommittee is charged with establishing the facts of the matter and determining if infringements of academic freedom and/or violations of the role of faculty in governance took place.

Members of the subcommittee:

Andrew Alleyne is the Ralph & Catherine Fisher Professor of Engineering and holds appointments in Mechanical Science and Engineering as well as the Coordinated Science Laboratory. He has published over 300 articles in peer-reviewed journals and conferences and graduated more than 70 PhD and MS students. He has numerous awards from the American Society of Mechanical Engineers (ASME), of which he is a Fellow, including the Outstanding Investigator Award, the Gustus Larson Memorial Award, and the Outstanding Young Investigator Award. He is the recipient of a CAREER award by the National Science Foundation, has been a Distinguished Lecturer of the Institute for Electronic and Electrical Engineers (IEEE), and a National Research Council Associate. He was a Fulbright Fellow to the Netherlands and has held visiting Professorships at TU Delft, University of Colorado, ETHZ, and Johannes Kepler University. He has held several editorial positions for ASME, IEEE, and the International Federation of Automatic Control. He currently chairs the ASME Dynamic Systems and Controls Division and has been active in several external advisory boards for universities, industry and government including the Scientific Advisory Board for the U.S. Air Force. His record of campus service includes the Associate Dean for Research in the College of Engineering. In addition to research and service, he has a keen interest in education and has earned the College of Engineering's Teaching Excellence Award and the UIUC Campus Award for Excellence in Undergraduate Education.

Matthew Finkin is the Albert J. Harno and Edward W. Cleary Chair in Law, a Center for Advanced Study Professor, and the Director of the Program in Comparative Labor and Employment Law and Policy. He is the author or editor, singly or in collaboration, of ten books including *Multinational Human Resource Management and the Law* (2013), *Privacy in Employment Law* (2013), *For the Common Good: Principles of American Academic Freedom* (2009), and the last several editions of Cox, Bok, & Gorman's *Labor Law*, long the leading casebook in American legal education. He is also the author of a substantial body of periodical writing on labor and employment law, comparative labor law, and legal issues in higher education. His awards include the Alexander von Humboldt Foundation's Research Prize for "internationally acknowledged achievements in labor law" (1995) and honorary doctorates from the University of Trier, Germany, and the University of Athens, Greece. In 1997, Professor Finkin assumed joint editorship of the *Comparative Labor Law & Policy Journal* with Professor Sanford Jacoby of the Anderson Graduate School of Management at UCLA. He also serves on the editorial

boards of labor law periodicals in Canada, Belgium, Germany, and the U.S. In addition to his academic work, Professor Finkin is active as a labor arbitrator. He was elected to the National Academy of Arbitrators and serves on several standing arbitral panels in the public and private sectors. He is a fellow of the College of Labor and Employment Lawyers.

C. K. Gunsalus is the Director of the National Center for Professional and Research Ethics (NCPRE), Professor Emerita of Business, and Research Professor at the Coordinated Science Laboratory. She has been on the faculty of the Colleges of Business, Law, and Medicine at the University of Illinois at Urbana-Champaign and served a range of administrative roles in the campus administration as well as Special Counsel in the Office of University Counsel. She was the PI on the NSF-funded cooperative agreement that provided \$1.5M to initiate Ethics CORE, the National Online Ethics Resource Center, and a recent \$2.7M award focusing on the leadership needs of the research university of the future. Her work is in leadership development, ethics, research integrity, whistleblowing, and professionalism. She was a member of the United States Commission on Research Integrity and served for four years as chair of the American Association for the Advancement of Science (AAAS) Committee on Scientific Freedom and Responsibility. She is an elected Fellow of the AAAS and currently serves on the National Academy of Sciences Committee on Responsible Science. She is the author of two books published by the Harvard University Press and a range of publications on institutional and research integrity.

David O'Brien is an Associate Professor of Art History in the School of Art and Design and currently Chair of the Art History Program. He is the author of *After the Revolution: Antoine-Jean Gros, Painting, and Propaganda under Napoleon* (Penn State University Press, 2006; French translation published by Editions Gallimard, 2006) and numerous other publications on eighteenth- and nineteenth-century French art. He co-authored *Beyond East and West: Seven Transnational Artists* (University of Washington, 2004) and co-edited *Remembering Brown at Fifty: The University of Illinois Commemorates Brown v. Board of Education* (University of Illinois Press, 2009). He is a Member of the Institute for Advanced Study in Princeton and former Fellow of the American Council of Learned Societies. He is the current Chair of the Senate Committee on Academic Freedom and Tenure and will chair the subcommittee.

To: Phyllis Wise
From: [REDACTED]
Subject: Article...
Sent: Wed Sep 10 19:50:54 2014
Importance: Normal

Here is an article posted on The Roanoke Times website (Roanoke.com <<http://Roanoke.com>>) in response to an article they did on Salaita...

<http://www.tabletmag.com/jewish-news-and-politics/183274/salaita-tweets>

[REDACTED]
Sent from my iPad

To: Phyllis Wise
From: [REDACTED]
Subject: Good article
Sent: Thu Sep 11 11:03:32 2014
Importance: Normal

<http://www.chicagotribune.com/news/opinion/editorials/ct-salaita-u-of-i-professor-hate-speech-edit-0911-20140911-story.html>

[REDACTED]
Sent from my iPhone

From: Phyllis Wise <[REDACTED]>
Sent: Friday, September 12, 2014 7:08 AM
To: [REDACTED]
Subject: thank you and [REDACTED]

Dear [REDACTED]

Thank you for being at the Board of Trustees meeting yesterday. Please also thank [REDACTED] for his powerful statement and also for collecting all the names. Showing that many students support me was truly reassuring and heartwarming. I believe we are still trying to find a time when I can meet with a group of students. I will check with Adam this morning to find out where we are on that.

But I really just wanted to say thank you! You are amazing.

All the best,
Phyllis

From: [REDACTED]
Sent: Friday, September 12, 2014 5:52 PM
To: Phyllis Wise
Subject: We stand TALL and PROUD

Sent from my iPhone

Having trouble viewing this email? [Click here](#)

Jewish Illini Bulletin

September 12 2014

Elul 17 5772

Shabbat Candle Lighting 6:49pm

Standing on the quad on 9/11, as I hear shouts from some not so good people across the quad, I take a moment to look around our table, lines of students waiting to pledge a good deeds, speaking and acting positive, reflecting on the Board of trustees meeting that morning as I sat proudly with students, who where acting and leading as one should, it made me realizeand remember, how blessed we are to have such a special Illini Chabad family, and see how the future is going to be blessed and amazing.

This past week, with events every day, from Challah baking at Allen Hall to the House BBQ's, the packed shabbat, to the amazing Lunch n Learn, ending with Kosher hot dogs at Bromley, each moment so special.

Yet, this is just the beginning, I am very looking forward to t hs upcoming week, each and every day, I look forward to welcome and meet you personally. If you'd ever like to chat, just call or text and we can meet for some coffee or a kosher lunch at the Union.

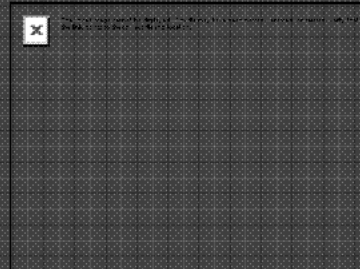
We look forward to personally welcome you tonight or any of the upcoming events.

and always remember #AMYISROELCHAI

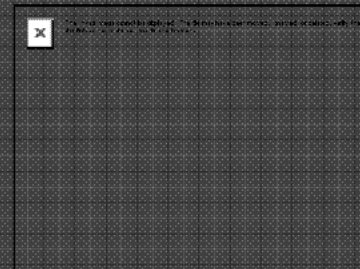
See Ya soon,

JOIN OUR MAILING LIST

Photos of the week



Kosher @ Bromley Hall



Challah Baking at Allen Hall

Rabbi Dovid, Goldie & the Chabad family

PS, to learn more about Chabad and what it means to you, visit

www.JewishIllini.org -

FIND US ON FACEBOOK - JOIN THE [ILLINI CHABAD FAN](#)

[PAGE](#) to be kept in the loop



Graduated? email rabbi@illinois.edu and we will switch from the weekly email to the alumni list. No need to unsubscribe

IN THIS ISSUE

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[Miracle at Entebbe: NEXT SHABBAT](#)

[This week in a Nutshell](#)

[High Holidays on Campus](#)

[KOSHER ON CAMPUS](#)

[Chabad Student Leadership](#)

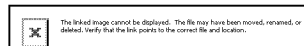
DID YOU KNOW? MAJOR EXPANSIONS OF KOSHER ON CAMPUS THIS WEEK

1) KOSHER AT ILLINI TOWER:
YES! Every Thursday night, come out for Kosher Hot Dog dinner at Illini Tower

2) KOSHER AT BROMLEY HALL
YES! 2nd Friday of every Month, Kosher hot lunch at Bromley Hall

3) KOSHER ROMANIAN DELI and more
Lunch (or whenever you want it) at the Illini Union Quad Shop or IKE 57 North
Stop by at any hour for a fresh Deli sandwich or garden Salad.

4) HOT KOSHER DINNERS
EVERY weeknight at LAR/ALLEN HALL
Join for a full hot dinner each and every weeknight, Brisket, Mixican and more.



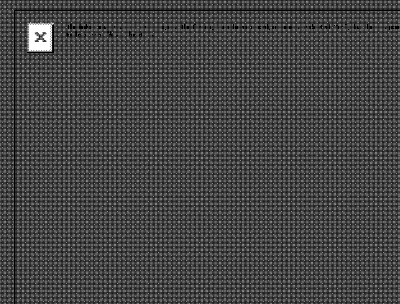
All the above you can get either on your meal plan or just as a guest. Open to all, students, faculty, community anyone!

YES - during Basketball we will be back with Kosher dogs at the games!

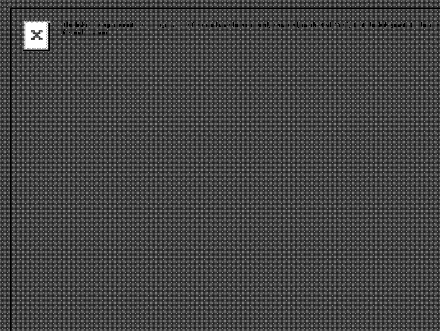
Also, Hot kosher meals free of charge at shabbat at Chabad, Lunch n Learn and more!



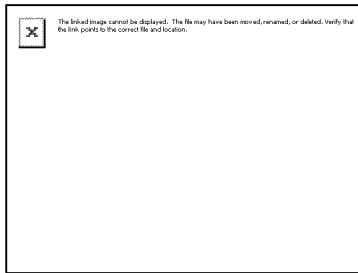
9/11 Mitzvah Marathon



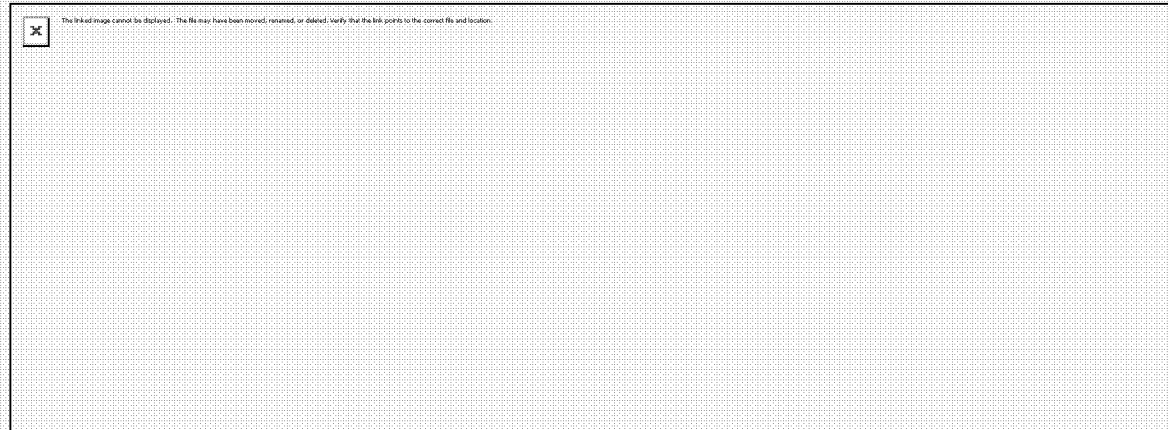
JNF dinner



ZBT BBQ @ Chabad



SHABBAT @ CHABAD



By now you already know where you want to be on Shabbat! Shabat at Chabad, an event not to miss!

Come and enjoy a home cooked 5 course dinner with friends and family!

You know by now, why Shabbat @ Illini Chabad is not to be missed!

6:45pm Kabbalat Shabbat
7:30pm dinner
come for either or both.

CAN'T WAIT TO SEE (and meet!) EVERYONE!!!
Dovid, Goldie and the Chabad Crew

Thanks to our generous partners, There is NO charge for dinner @ Chabad...come home to a warm dinner. ***Want to partner and sponsor a Shabbat? [click here.](#)***

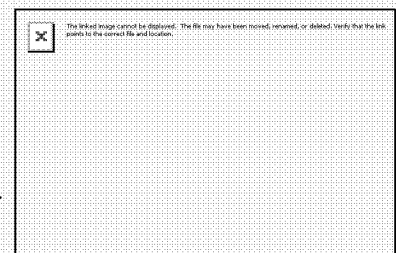
Shabbat continues - Shabbat day
10am morning service
1pm Lunch
7pm light refreshments
8:00pm musical havdallah

SINAI SCHOLARS SOCIETY

SINAI SCHOLARS SOCIETY
Register TODAY

Now in its 15th semester!

University of Illinois is proud to have a chapter of this exclusive society, promoting Jewish Leadership and Study, with stipends for those who successfully complete the program.



This semester-long series of 8 classes tackles the Ten Commandments in depth, providing a

fascinating look at the laws and morals that form the basis of almost every legal system and culture, and contain the core building-blocks of Judaism.

Qualified applicants who successfully complete program requirements receive a stipend. Limited spots available.

www.SinaiScholars.com to register and for more information.

For more info, email Jordyn Altit at jordynpaltit@gmail.com or rabbi@illinois.edu

*jGrads: Jewish YP and Grad Society of CU:
Pre Holiday Wine tasting evening*



The linked image cannot be displayed. The file may have been moved, renamed, or deleted. Verify that the link points to the correct file and location.

Join for a Community wide event as we usher in the new year.

A evening of fine wine tasting, led by an expert, and we enjoy the wines and understand its connection to the New Year.

Thursday, Sept 18 at 5:00pm at Binny's Wine Emporium

RSVP to office@jewishillini.org

ISRAEL FOR FREE - THIS WINTER!!!!

Join THE Illini trip on MAYANOT. \$1 provided!



The linked image cannot be displayed. The file may have been moved, renamed, or deleted. Verify that the link points to the correct file and location.

Join the most popular and fun trip to Birthright Israel: MAYANOT!

go with your friends, meet students from ALL over the US.

Registration IS OPEN!!!

Early Registration is Monday.

Pre register now at www.mayanotisrael.com

got questions? email rabbi@illinois.edu

What make Mayanot so amazing? [See here](#)

NEXT SHABBAT: Rain on Entebbe: Meet the Hero



The linked image cannot be displayed. This file may have been moved, renamed, or deleted. Verify that the link points to the correct file and location.

Join us and hear the story firsthand from special guest Sassy Reuven, who was part of the elite IDF commando Unit Led by Yoni Netanyahu, that saved the over 100 Jewish and Israeli Hostages on July 4th 1976 from Uganda.

For the Students:

Friday, September 19 7:30pm over Shabbat dinner

for the entire CU community

Shabbat (Saturday) at 1:15pm over a gourmet Lunch.

This is an event you do not want to miss.

For more on this story see:

http://en.wikipedia.org/wiki/Operation_Entebbe

A week in the life of Chabad - in a Nutshell

1st week of events

Sept 12 - September 19

FRIDAY

Friday Night Live!

7:30 PM dinner

6:45 PM services

Post dinner: Stay on for a great Oneg/after party

SHABBAT

T.G.I.S. Thank G-d It's Shabbat

easy-to-follow, easy-to-join services

10 AM @ Chabad

Kiddush Lunch 1 PM

Seuda Shlishit - light dinner and singing 7pm

Musical Havadallah: 8:00pm

SUNDAY

BLT: 8:30am

TUESDAY

Chabad on the Quad 11-2

Challah @ Allen hall 6:30pm

WEDNESDAY

Lunch 'n Learn 1 PM at the Illini Union's Courtyard Cafe

THURSDAY

jGrads: Wine tasting at Binny's

Meat n Greet 9pm

Monday - Wednesday

Early Risers: Morning service & Tefillin wrap followed by breakfast: 7:30am

Kosher at Allen, every weekday 5-6:30pm

All events are at Chabad unless otherwise noted.

High Holidays on Campus: We have a place for you

Join hundreds of fellow Illini at Illini Chabad for all your holidays needs.



The linked image cannot be displayed. The file may have been moved, renamed, or deleted. Verify that the link points to the correct file and location.

See here for all the info, Make sure to RSVP to hold your spot.

KOSHER ON CAMPUS - MAJOR EXPANSION!!

As part of Illini Chabad's work to increase Kosher on Campus, this year we have major new opportunities!!

Did you know you can get a hot Kosher dinner each and every day on campus?
Lunch at the Union?

Here is a overview of Kosher on campus:

Grab a fresh Romanian Deli Sandwich or Salad

At the Illini Union Quad Shops or IKE 57 North

Each and every Day! You can use you i-card or just buy a meal

Hot Dinners:

EVERY weeknight

at LAR/Allen Hall dining hall

5- 6:15pm

You can use you I-card or just buy a meal

NEW NEW NEW

Hot Dogs dinner EVERY Thursday Evening at Illini Tower

Yes, come by Illini Tower, 4:45pm - 6:15pm each and every Thursday for a hot Dog Dinner.

Open to all.



The linked image cannot be displayed. The file may have been moved, renamed, or deleted. Verify that the link points to the correct file and location.

First Friday of each month
Hot Dog Lunches at Bromley Hall!!! 11-2pm

Want more? Just email rabbi@illinois.edu and share your ideas.

Chabad Student Leadership

MEET THE CHABAD STUDENT LEADERSHIP BOARD

Illini Chabad Student Leadership Fall 2014:

Stanley Dayan - President

Sarah Ungerman/ Rebecca Shraiber - Vice presidents

Eli Hyman - Treasurer

Michaela Sokol - Secretary

Andy Rudolph - VP greek life

Alan Arens/ Jordyn Altit, VP outreach

Abbey Rosenberg - Social Chair

Michael Schraiber - VP outreach non-greek

Lauren Pliskin - VP Recruitment

Shira Schwartz - past president

Tamar Schwartzman * Gabe Gould * Josh Cooper * Zoie Weisberg * Jenna Weiss * Kevin Fine
* Ryan Brown * Levi Tiechtel * David Khazanovich * Sarah Mnushkin * Sarah Stranieri

What is Chabad?

Chabad is a warm, non-judgmental, fun, exciting, and lively place, where every Jewish student feels comfortable. It is a student's organization and a home for every Jew, regardless of affiliation or background - its belief is that "Labels are for shirts - Not for people!" Our denomination is... Jewish - all Jews together.

"Where Every Jew Is Family"

[Click Here](#) to see the amazing video on Illini Chabad

Forward email



This email was sent to rabbi@uiuc.edu by rabbi@illinois.edu |
[Update Profile/Email Address](#) | Rapid removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).



Chabad at University of IL & Champaign-Urbana | 509 S. Fourth St. | corner of Fourth and Healey | one block North of Green St. | Champaign | IL | 61820

From: Nick Burbules <[REDACTED]>
Sent: Sunday, September 14, 2014 9:35 PM
To: I Adesida
Subject: Votes of No Confidence
Attachments: VONC3.docx

Hi Ade,

I think that this information might be shared with Deans, and through them to their dept EOs

Up to you, obviously.

Nick

VOTES OF NO CONFIDENCE

Currently, 15 units (13 departments and 2 programs) in LAS have voted “no confidence” in Chancellor Wise and/or President Easter and the Board of Trustees. This is about a third of the 36 departments in that college, and around 14% of the over 90 departments on campus.

It is impossible to estimate how many faculty members these unit votes represent, because the vote totals have not always been released. In one department’s case, the suppression of the vote totals resulted in protests from the nearly half of the unit faculty who did not support the proposal.

In U.S. higher education circles, a “vote of no confidence” is a specific action that affirms that because of corruption, incompetence, or mismanagement an administrator is deemed no longer able to serve in their post effectively. It is a call for them to resign or be fired.

While this may be the intention of some faculty voting for these motions, the wording of many of the unit resolutions suggests that the intended message is something else: a vehement disagreement with the Chancellor over her decision on the Steven Salaita hiring. That is a legitimate protest, but it is not a vote of no confidence. Many faculty who are voting to express that strong disagreement have said openly that it is NOT their intention to force the resignation of the Chancellor.

In such circumstances, there needs to be a clear distinction made between resolutions protesting a specific decision – which people have every right to express – and votes of no confidence, which are quite a different thing, and are understood as such everywhere in the country where people see these actions reported in the news media.

The inconsistent wording of motions, the lack of public debate, and the refusal to release vote totals all make this a highly irregular and misleading way to address such a crucial campus issue.

To: Burbules, Nicholas C; Joyce Tolliver; Sauer, Peter W
From: Scheeline, Alexander
Subject: FW: Chemistry vote of support for Chancellor Wise
Sent: Mon Sep 15 14:15:35 2014
Importance: Normal

Perhaps of interest. Obviously, this didn't come before the BOT meeting, but perhaps it will be useful going forward.

Alex

From: Girolami, Gregory S

Sent: Monday, September 15, 2014 2:09 PM

To: Easter, Robert A; Kies, Susan Mary [REDACTED]

Cc: Wise, Phyllis M; Kaler, Robin Neal; Hauser, Robert J; DeBrock, Lawrence M; Kalantzis, Mary; Cangelaris, Andreas C; Feser, Edward; Lubienski, Sarah Theule; Slater, Janet S; Colombo, John D; Wilson, Barbara Jan; Bailey, Ronald William; Warrior, Robert; Paige, Ken N; Orta, Andrew; Raineri, Deanna M; Espiritu, Augusto F; Gammie, Charles Forbes; Rauber, Robert M; Morrissey, James H; Ha, Taekjip; Chen, Jie; Bowen, Merle L; Prior, Paul A; Kenis, Paul J A; Girolami, Gregory S; Traill, Ariana; Caughlin, John Patrick; Kaganovsky, Lilya; Hoffman, Valerie J; Oyler, Elizabeth A; Xu, Gary Gang; Perry, Martin; Rothberg, Michael; Berenbaum, May R; Keller, Marcus; Nadeau, Chantal; McLafferty, Sara L; Johnson, Thomas Martin; Niekerk, Carl Hendrik; Koenker, Diane P; Harris, Dianne S; O'Reilly, Erin Nicole; Wilson, Barbara Jan; Wilson, Barbara Jan; Goldman, Dara Ellen; Inda, Jonathan Xavier; cecarere@illinois.edu; Yoon, Hye Suk James; Ando, Matthew A; Cronan, John E Jr; Bagchi, Milan K; Cohen, Neal J; Bunzl, Matti; Sanders, Kirk; Hu, Feng Sheng; Pahre, Robert; Wright, Charles D; Irwin, David E; Price, David; Cooper, David; Marshak, Stephen; Marshak, Stephen; Mathy, Jean-Philippe R; Sweedler, Jonathan V; cecarere@illinois.edu; Sligar, Stephen G; Finke, Michael C; Mathy, Jean-Philippe R; Burton, Antoinette M; Hualde, Jose Ignacio; Frankenberg, Susan R; Simpson, Douglas G; Goodlad, Lauren M E; Marshall, Keith A; Gallagher, Tanya Montaleone; Mariscalco, Michele; Constable, Peter D; Emanuel, Tom W Jr; Drasgow, Fritz; Braden, John B; Sullivan, William C; Korr, Wynne Sandra; Bellini, Michel; Renear, Allen H; Endres, A Bryan; Wilkin, John P; Adesida, Ilesanmi; Hixson, Paul C; Stratman, Allan; Stratman, Allan; Schiffer, Peter E; Kramer, Arthur F; Romano, C Renee; Peterson, Dan C; Burke, Sandra D; Oliphant, Uretz J; Wilkin, John P; Hardy, Thomas; Laing, Katherine; Veazie, Steven; Schook, Lawrence B; Pierre, Christophe; Hites, Michael; Bass, Michael B; Farrell, Thomas J; Newman, Peter

Subject: Chemistry vote of support for Chancellor Wise

To: President Robert A. Easter and Christopher G. Kennedy, Chair of the Board of Trustees

Cc: Members of the Urbana Campus of the University of Illinois

The following statement (also attached) was approved today in a vote of the faculty of the Department of Chemistry.

The faculty of the Department of Chemistry express their support of, and confidence in, Chancellor Phyllis Wise. We are grateful for her strong leadership over the past three years, and we look forward to her continued guidance of our campus.

Gregory S. Girolami

William and Janet Lycan Professor and Head of Chemistry

Beckman Institute Professor

University Scholar

Department of Chemistry

University of Illinois at Urbana-Champaign

600 South Mathews Ave

Urbana, IL 61801

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UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN

Department of Chemistry

School of Chemical Sciences
107 Noyes Laboratory, MC-712
505 S. Mathews Avenue
Urbana, IL 61801



September 15, 2014

To: Robert A. Easter, Ph.D.
President
University of Illinois

Cc: Christopher G. Kennedy
Chair, Board of Trustees
University of Illinois

Letter of Support for Chancellor Phyllis Wise from Faculty of the Department of Chemistry

The faculty of the Department of Chemistry express their support of, and confidence in, Chancellor Phyllis Wise. We are grateful for her strong leadership over the past three years, and we look forward to her continued guidance of our campus.

From: Joyce Tolliver
Sent: Monday, September 15, 2014 7:06 PM
To: Scheeline, Alexander
Subject: Re: FW: Chemistry vote of support for Chancellor Wise

Yes, certainly of interest! Wonderful news. Thanks for passing it on, Alex.

On Mon, Sep 15, 2014 at 2:15 PM, Scheeline, Alexander <scheelin@illinois.edu> wrote:

Perhaps of interest. Obviously, this didn't come before the BOT meeting, but perhaps it will be useful going forward.

Alex

From: Girolami, Gregory S
Sent: Monday, September 15, 2014 2:09 PM
To: Easter, Robert A; Kies, Susan Mary; [REDACTED]
Cc: Wise, Phyllis M; Kaler, Robin Neal; Hauser, Robert J; DeBrock, Lawrence M; Kalantzis, Mary; Cangelaris, Andreas C; Feser, Edward; Lubienski, Sarah Theule; Slater, Janet S; Colombo, John D; Wilson, Barbara Jan; Bailey, Ronald William; Warrior, Robert; Paige, Ken N; Orta, Andrew; Raineri, Deanna M; Espiritu, Augusto F; Gammie, Charles Forbes; Rauber, Robert M; Morrissey, James H; Ha, Taekjip; Chen, Jie; Bowen, Merle L; Prior, Paul A; Kenis, Paul J A; Girolami, Gregory S; Traill, Ariana; Caughlin, John Patrick; Kaganovsky, Lilya; Hoffman, Valerie J; Oyler, Elizabeth A; Xu, Gary Gang; Perry, Martin; Rothberg, Michael; Berenbaum, May R; Keller, Marcus; Nadeau, Chantal; McLafferty, Sara L; Johnson, Thomas Martin; Niekerk, Carl Hendrik; Koenker, Diane P; Harris, Dianne S; O'Reilly, Erin Nicole; Wilson, Barbara Jan; Wilson, Barbara Jan; Goldman, Dara Ellen; Inda, Jonathan Xavier; cecarere@illinois.edu; Yoon, Hye Suk James; Ando, Matthew A; Cronan, John E Jr; Bagchi, Milan K; Cohen, Neal J; Bunzl, Matti; Sanders, Kirk; Hu, Feng Sheng; Pahre, Robert; Wright, Charles D; Irwin, David E; Price, David; Cooper, David; Marshak, Stephen; Marshak, Stephen; Mathy, Jean-Philippe R; Sweedler, Jonathan V; cecarere@illinois.edu; Sligar, Stephen G; Finke, Michael C; Mathy, Jean-Philippe R; Burton, Antoinette M; Hualde, Jose Ignacio; Frankenberg, Susan R; Simpson, Douglas G; Goodlad, Lauren M E; Marshall, Keith A; Gallagher, Tanya Montaleone; Mariscalco, Michele; Constable, Peter D; Emanuel, Tom W Jr; Drasgow, Fritz; Braden, John B; Sullivan, William C; Korr, Wynne Sandra; Bellini, Michel; Renear, Allen H; Endres, A Bryan; Wilkin, John P; Adesida, Ilesanmi; Hixson, Paul C; Stratman, Allan; Stratman, Allan; Schiffer, Peter E; Kramer, Arthur F; Romano, C Renee; Peterson, Dan C; Burke, Sandra D; Oliphant, Uretz J; Wilkin, John P; Hardy, Thomas; Laing, Katherine; Veazie, Steven; Schook, Lawrence B; Pierre, Christophe; Hites, Michael; Bass, Michael B; Farrell, Thomas J; Newman, Peter
Subject: Chemistry vote of support for Chancellor Wise

To: President Robert A. Easter and Christopher G. Kennedy, Chair of the Board of Trustees

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The faculty of the Department of Chemistry express their support of, and confidence in, Chancellor Phyllis Wise. We are grateful for her strong leadership over the past three years, and we look forward to her continued guidance of our campus.

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fax (research office): 217-244-3186

fax (dept office): 217-244-7091

--

Joyce Tolliver

From: on behalf of [REDACTED]
Sent: Tuesday, September 16, 2014 4:12 PM
To: awise
Cc: Phyllis Wise
Subject: a document for your review and help
Attachments: 20140916 Faculty Senate Meeting Talking Points.docx

Hi Andy:

Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

Your thoughts?

r

To: [REDACTED]
From: Wise, Andrew
Cc: Phyllis Wise
Subject: RE: a document for your review and help
Sent: Tue Sep 16 21:04:42 2014
Importance: Normal

Robin: Here are some comments for your consideration. Happy to discuss further if you wish.

Andy

-----Original Message-----

From: [REDACTED]mailto:[REDACTED]
Sent: Tuesday, September 16, 2014 6:09 PM
To: Wise, Andrew
Cc: Phyllis Wise
Subject: Re: a document for your review and help

Hi again, Andy:

Try this one instead!

It was so good to talk with you.

You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]
r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>
To: [REDACTED]
Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central
Subject: RE: a document for your review and help

Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.

Andy

-----Original Message-----

From: [REDACTED]mailto:[REDACTED]
Sent: Tuesday, September 16, 2014 5:12 PM
To: Wise, Andrew
Cc: Phyllis Wise
Subject: a document for your review and help

Hi Andy:

Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

Your thoughts?

From: [REDACTED]
Sent: Wednesday, September 17, 2014 6:18 AM
To: Andrew Wise
Cc: Phyllis Wise
Subject: Re: a document for your review and help
Attachments: 20140916 Faculty Senate Meeting Talking Points5p 9-16-2014_atw and pmw comments.docx

Hi Andy:

Here's a version with additional comments from [REDACTED]

I have to be on a conference call in a bit, then accompany the provost to an appearance on C-SPAN, but I'll check this mailbox for any additional input from you after that.

Thanks so much!

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>

To: [REDACTED]n

Cc: "Phyllis Wise" [REDACTED]

Sent: Tuesday, September 16, 2014 9:04:42 PM GMT -06:00 US/Canada Central

Subject: RE: a document for your review and help

Robin: Here are some comments for your consideration. Happy to discuss further if you wish.

Andy

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]

Sent: Tuesday, September 16, 2014 6:09 PM

To: Wise, Andrew

Cc: Phyllis Wise

Subject: Re: a document for your review and help

Hi again, Andy:

Try this one instead!

It was so good to talk with you.

You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>

To: [REDACTED]

Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central

Subject: RE: a document for your review and help

Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.

Andy

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]

Sent: Tuesday, September 16, 2014 5:12 PM

To: Wise, Andrew

Cc: Phyllis Wise

Subject: a document for your review and help

Hi Andy:

Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

Your thoughts?

r

From: on behalf of [REDACTED]
Sent: Wednesday, September 17, 2014 6:54 AM
To: Andrew Wise
Cc: Phyllis Wise
Subject: Re: a document for your review and help
Attachments: 20140916 Faculty Senate Meeting Talking Points630a 9-17-2014.docx

Hi Andy:

Please work from this version instead. Someone made a couple of minor changes, but I want to make sure we have everything on the same document.

thanks again!

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>

To: [REDACTED]

Cc: "Phyllis Wise" [REDACTED]

Sent: Tuesday, September 16, 2014 9:04:42 PM GMT -06:00 US/Canada Central

Subject: RE: a document for your review and help

Robin: Here are some comments for your consideration. Happy to discuss further if you wish.

Andy

-----Original Message-----

From: [REDACTED] [mailto:\[REDACTED\]](mailto:[REDACTED])

Sent: Tuesday, September 16, 2014 6:09 PM

To: Wise, Andrew

Cc: Phyllis Wise

Subject: Re: a document for your review and help

Hi again, Andy:

Try this one instead!

It was so good to talk with you.

You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>

To: [REDACTED]

Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central

Subject: RE: a document for your review and help

Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.

Andy

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]

Sent: Tuesday, September 16, 2014 5:12 PM

To: Wise, Andrew

Cc: Phyllis Wise

Subject: a document for your review and help

Hi Andy:

Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

Your thoughts?

r

From: on behalf of [REDACTED]
Sent: Wednesday, September 17, 2014 12:47 PM
To: Michael LeRoy
Cc: [REDACTED]
Subject: Re: Myers v. Hasara

You rock, Michael!

----- Original Message -----

From: "Michael LeRoy" [REDACTED]
To: [REDACTED]
Sent: Wednesday, September 17, 2014 11:24:15 AM GMT -06:00 US/Canada Central
Subject: Myers v. Hasara

I ran across a case in which Karen Hasara was sued in her capacity a mayor of Springfield by an employee who alleged a violation of First Amendment rights.

I mentioned this to Robin simply to suggest that Ms. Hasara might be a useful, personal resource for Phyllis-- as much from a coaching (and calming) perspective as anything else.

I passed the case along to Scott Rice; but I consider [REDACTED]
[REDACTED]

The Seventh Circuit Court of Appeals ruled for the terminated employee, but this is misleading: the ruling was whether the health officials critical statements were "public" in nature (as opposed to a private grievance about her work).

The point is that Mayor Hasara did not lose the case-- she only lost an issue in this ruling-- only that the case was ordered to trial (or was settled).

My database has 80+ faculty cases with a First Amendment issue (and growing), and the trend on this issue (not others) is quite favorable-- but there are adverse precedents, too.

Personally, I am optimistic on this issue due to statistical indicators of court behavior.

Anyway, in case you want to read the Hasara case, here it is.

i am meeting with Scott this afternoon.

No reply is necessary.

Be positive, always.

I am looking forward to the medical school concept moving forward, a far more important matter.

Michael

Meyers v. Hasara, 226 F.3d 821 (7th Cir. 200)

James P. Baker (argued), Springfield, IL, for Plaintiff–Appellant.

Robert M. Rogers , City of Springfield, Bradley B. Wilson (argued), Corporation Counsel, Springfield, IL, for Defendants–Appellees.

Before WOOD, Jr. , KANNE and DIANE P. WOOD , Circuit Judges.

KANNE , Circuit Judge.

At the behest of its mayor, the City of Springfield suspended health inspector Cynthia Myers for comments she made regarding an open-air produce market that allegedly had been operating in violation of city and state law. Myers considered the punishment a violation of her constitutional rights and sued the mayor and health department director under 42 U.S.C. § 1983 . T

he district court granted the defendants summary judgment on the merits and also ruled that the defendants were entitled to qualified immunity because the law regarding discipline of public employees for exercising their First Amendment rights was not clearly established at the time of Myers' suspension. However, because the district court resolved factual disputes in favor of the defendants, we hold that summary judgment was not warranted in this case.

Furthermore, the standards concerning a public employer's authority to punish an employee for exercising rights guaranteed under the First Amendment were well established at the time of the events in question, and therefore qualified immunity was not justified. We reverse the grant of summary judgment and remand for trial.

i. History

Cynthia Myers worked as a supervisor and health inspector in Springfield's health inspection program. In that role, she oversaw the food inspection program, supervised five inspectors and performed routine health inspections of restaurants, markets and stores for compliance with city and state health codes. Myers' boss was Steve Hall, the head of the Public Health Department Environmental Division, who reported to defendant Gail Danner, the acting head of the Public Health Department. Danner reported to Keith Haynes, the director of community services, who reported directly to defendant Karen Hasara, the Springfield mayor.

Although several steps removed from the pinnacle of Springfield power, Myers had some supervisory duties in her job and was called on to participate in making division decisions and formulating policies. The Springfield health department, in addition to enforcing its own ordinances, had entered into an agreement with the state to enforce the state's health laws. Furthermore, the city's health ordinances were required to be no less stringent than the state's.

In 1995, a business called Parsons' Produce operated an open-air market in the parking lot of a local department store. Parsons' sold fruit and vegetables under an agricultural commodity permit, which permitted the sale of fresh produce, but not packaged food products. The restriction on selling packaged foods stems from the increased risk of infestation and contamination in an open-air market and the recognition that the consumer typically knows to inspect and wash fresh food, but may not do the same with packaged products.

Myers inspected Parsons' Produce in 1995 and found that it was selling packaged food products in an open-air market in violation of state and local laws. Of the six businesses operating under an agricultural commodity permit in the city, only Parsons' sold packaged foods. Myers filed her report with Danner and Hall, who visited Parsons' and confirmed Myers' finding. Hall voiced concerns to Danner and Haynes about Parsons', which led to a meeting with the state health department, which then formally notified Haynes that Parsons' was in violation of state health laws. The city's legal department notified Haynes that Parsons' was in violation of city and state health laws, and that the city ordinance could not be amended to allow Parsons' to continue to operate as it was without losing state funding for the program. At the same time, Hall sent Haynes a memorandum encouraging the enforcement action against Parsons'. Hasara took office in 1995 and was informed of the situation with Parsons'. Several other meetings took place over the course of 1995, but no action was taken against Parsons' to stop it from selling packaged food products. Parsons' closed for the season in the fall of 1995.

In 1996, Parsons' reopened and expanded into a second location at a local mall. Myers again inspected its facility. Myers found that Parsons' continued to sell packaged food products without the proper license, and reported this finding to Danner. Knowing that it was operating in violation of the permit, Myers refused to act on its application for a new agricultural commodity permit. Hall supported Myers' position and refused to approve the permit application. Danner, however, acting on the directions of her superiors, approved the permit and informed Myers that she did not need to take any further action regarding Parsons'. The defendants claim that they gave Myers a clear directive to have no further involvement with Parsons', but Myers disputes this factual contention.

Hasara, Danner and Haynes met with state health officials in May 1996 and discussed the Parsons' permit situation. Hasara believed Parsons' was not violating the law and voiced support for Parsons'. State health officials disagreed, but allowed that it was a local matter and said the state health department would not interfere. Hasara instructed Danner and Haynes to allow Parsons' to operate as it had before. Myers had no other involvement with the permit issue, but responded to two complaints—one in May, the other in July—regarding Parsons'. Parsons' complained to Haynes that Myers was harassing it. Haynes investigated, but found no evidence to support the complaint.

Later in May, the local newspaper published an article concerning Parsons' and the health inspections, reporting that the market continued to operate in violation of city and state health codes. On May 30, while inspecting a restaurant at the mall where Parsons' operated one of its markets, Myers and another health inspector met with an assistant manager of the mall. Myers asked the manager whether he had seen the newspaper article, to which he responded that he had. In response to the manager's questions, Myers said that Parsons' was in violation of its permit and the city had decided to take no action against it. The mall manager was concerned about the mall's potential liability for health dangers caused by one of its tenants, and Myers indicated that she thought landlords could be held liable for the actions of their tenants.

Jeff Parsons, the owner of Parsons' Produce, soon found out about Myers' conversation with the mall manager, and complained to the mayor's office. Hasara wanted to fire Myers for expressing views contradictory to the city's policy on the issue, but Danner, Haynes and the city personnel director felt that termination was unwarranted. Hall also objected to disciplinary action against Myers. Instead, Myers was charged with failing to obey a reasonable directive and a hearing was held on the charge, at which Danner presided. On June 21, 1996, Myers was suspended for five days. No other action was taken against her.

Myers filed a two-count complaint against Hasara and Danner, alleging deprivations of her First and Fourteenth Amendment rights. After discovery, the defendants moved for summary judgment on the grounds that Myers' comments to the mall manager did not involve a matter of public concern, the city's interest in effective health inspection administration outweighed Myers' First Amendment rights and, in any event, Danner and Hasara were entitled to qualified immunity. The district court, applying the test for public-employee speech established in *Pickering v. Board of Education*, 391 U.S. 563, 88 S.Ct. 1731, 20 L.Ed.2d 811 (1968), agreed on all three grounds and granted the defendants summary judgment. This appeal followed.

ii. Analysis

1 2 3 We review de novo a grant of summary judgment, see *Weicherding v. Riegel*, 160 F.3d 1139, 1142 (7th Cir.1998), as well as a district court's decision that a defendant is entitled to qualified immunity. See *Forman v. Richmond Police Dep't*, 104 F.3d 950, 956–57 (7th Cir.1997). Summary judgment is proper when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed.R.Civ.P. 56(c); see also *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). In determining whether a genuine issue of material fact exists, we construe all facts in the light most favorable to the non-moving party and draw all reasonable and justifiable inferences in favor of that party. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

A. Pickering Balancing

4 In her complaint, Myers alleged that she had a protected First Amendment right to make the comments she did to the mall manager regarding Parsons' permit situation and the city's policy of not enforcing the relevant ordinance. The Supreme Court has long held that a public employee maintains a First Amendment right to speak out on matters of public concern even though she works for the government. See *Pickering*, 391 U.S. at 568, 88 S.Ct. 1731; see also *Connick v. Myers*, 461 U.S. 138, 142, 103 S.Ct. 1684, 75 L.Ed.2d 708 (1983). A public employee can be punished for exercising that right only if the facts of the case, as reasonably known to the employer, indicate that the employer's interest in promoting efficiency of public services outweighs the employee's interest in free speech. See *Waters v. Churchill*, 511 U.S. 661, 668, 114 S.Ct. 1878, 128 L.Ed.2d 686 (1994); *Pickering*, 391 U.S. at 568, 88 S.Ct. 1731. Courts after *Pickering* have engaged in a two-part analysis to determine whether the “interests of the [employee], as a citizen, in commenting upon matters of public concern” outweighed the “interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Id.*

1. Matters of Public Concern

5 6 In *Hulbert v. Wilhelm*, 120 F.3d 648, 653 (7th Cir.1997) , we re-stated the *Pickering* analysis as a three-part inquiry, although still addressing the core concern identified in *Pickering*. We held that the first part of *Pickering* sought to determine (1) whether the speech would be protected if uttered by a private citizen and (2) whether the speech was more than an unprotected “personal employee grievance.” *Hulbert*, 120 F.3d at 653. If so, then we would consider the speech to meet the test for speech by a citizen on a matter of public concern. See *id.* A number of factors are relevant to this analysis including the content, form and context of the remarks, see *Connick* , 461 U.S. at 147–48, 103 S.Ct. 1684, and whether the remarks can fairly be characterized as relating to issues of “political, social, or other concern to the community.” *Id.* at 146, 103 S.Ct. 1684 .

The district court held that the subject of *Myers'* comments was not a matter of public concern. We disagree. It is important to good government that public employees be free to expose misdeeds and illegality in their departments. Protecting such employees from unhappy government officials lies at the heart of the *Pickering* cases, and at the core of the First Amendment. For example, in *Marshall v. Porter County Plan Commission*, 32 F.3d 1215, 1218 (7th Cir.1994) , the plaintiff, an employee in the building inspector's office, told the county planning commission that required inspections were not being done and provided a list showing that half of the required inspections had not been performed. The commission took no action, but later fired her in part because of her complaints regarding the building inspections. We held that the activities about which the plaintiff complained “were the type that result in the misuse of public funds and trust. These were not employment disputes or criticisms of the way that only [plaintiff's] job was affected.” *Id.* at 1219–20. As a matter of law, we found these comments to be about matters of public concern. *Id.* at 1220.

Myers' comments to the mall manager are analogous. The city had a duty to enforce both its own and the state's food-inspection laws. There is no doubt that the inspection laws were valid and routinely enforced and that *Parsons'* practice of carrying packaged food products violated its permit. For whatever reason, the mayor and department head had decided not to enforce the law against *Parsons'* despite the city's duty to do so. Food-inspection rules, even ones that do not threaten cataclysmic harm, serve to protect the public health from risks of contamination. Like the plaintiff in *Marshall* , *Myers* found it objectionable that her department would refuse to enforce the law. The content of her comments to the mall manager involved a matter of public concern.

7 Following *Hulbert* , we find that *Myers'* criticism of the city for turning a blind eye to a known permit violation and potential health risk would have been protected if uttered by a private citizen and was more than a personal employee grievance. In fact, it bore no relation to the *827 gripes about office policies, scheduling and personnel decisions like those at issue in *Connick*, where the Court held that such employee grievances were not matters of public concern. 461 U.S. at 148, 103 S.Ct. 1684. The district court, examining the “content” of *Myers'* remarks, found that because she focused on *Parsons'* licensing problem, she was concerned not with a public health hazard but with her own dispute with her supervisors. *Myers v. Hasara* , 51 F.Supp.2d 919, 926–27 (C.D.Ill.1999) . We disagree. Whistleblowing does not need to be limited to systemic charges of corruption to qualify as a matter of public concern. A specific violation of a law that creates a risk to public health, safety or good governance likewise is a matter of public concern. *Myers* knew of one such violation and reported it to an obviously concerned party who she knew would take action on it. The fact that “her exact language is directed specifically at *Parsons'*,” *Myers* , 51 F.Supp.2d at 927, made sense considering that she perceived it to be a public health risk.

8 Furthermore, a “personal aspect contained within the motive of the speaker does not necessarily remove the speech from the scope of public concern.” *Marshall* , 32 F.3d at 1219. *Myers'* disgust or frustration about the city's decision to ignore a health-code violation does not mean that her complaint was not a public concern. While the speaker's motivation is relevant to the *Pickering* analysis, it is not necessarily dispositive, see *Gregorich v. Lund*, 54 F.3d 410, 415 (7th Cir.1995) ; *Colburn v. Trustees of Indiana Univ.*, 973 F.2d 581, 587 (7th Cir.1992) , and does not transform *Myers'* remarks into matters of private concern in this case. We disagree with the district court that she spoke “more as a disgruntled employee” or that her remarks in some way were a personnel grievance. We hold that the speech for which *Myers* was disciplined related to a matter of public concern, precluding summary judgment for the defendants on this issue.

2. The City's Interest

9 The district court found that the city's interest in "promoting efficient and effective public service outweighed Plaintiff's right to express herself." Myers , 51 F.Supp.2d at 928. However, in doing so, the district court resolved disputed issues of material fact in the defendant's favor, thereby rendering summary judgment improper. To answer the second part of the Pickering test, we have identified seven factors to consider. See Kokkinis v. Ivkovich , 185 F.3d 840, 845 (7th Cir.1999) ; Wright v. Illinois Dep't of Children & Fam. Servs. , 40 F.3d 1492, 1502 (7th Cir.1994) . Among those relevant to the summary judgment in this case are whether the speech created disharmony in the workplace and whether the employment relationship requires personal loyalty and confidence. See id. Both of these factors were influenced by the question of whether Myers had been given a clear directive not to discuss the issue further.

The district court disregarded this question rather than resolve it in Myers' favor. In the district court's opinion, the issue was irrelevant because Hasara reasonably believed that Myers had been given the order. We disagree. Myers was suspended for violating a superior's order, an offense that undoubtedly raises a legitimate governmental interest. However, the parties dispute whether Myers was given this order. If she was not, then her remarks to the mall manager were not in violation of a clear directive, and the governmental interest in having employees follow orders and accurately portray the agency's policies was not implicated. Therefore, this issue goes to the heart of Myers' complaint and should have been resolved in her favor for purposes of summary judgment.

10 The district court further found that Myers' actions created disharmony because city officials disagreed about how or whether she should be punished. Myers, 51 F.Supp.2d at 928. This analysis treats the "disharmony" factor in a Pickering claim in a way that could prevent plaintiffs from ever prevailing. The disharmony that undermines the government interest in efficient and effective service stems from the content of the speech itself, such as by undermining public confidence in the agency or contradicting the agency's public message. We would imagine that in most Pickering claims, government officials debated the proper punishment for the speaker. This cannot be the source of the relevant disruption or disharmony since it would weigh against every plaintiff. Just as disharmony was present when the superiors discussed Myers' punishment, it would have been absent had they not sought to punish her.

11 Another factor to consider in balancing the government's interest is whether the time, place or manner of the employee's speech disrupted the government's provision of services. See Coady v. Steil , 187 F.3d 727, 731 (7th Cir.1999) ; Wright , 40 F.3d at 1502. This analysis questions whether the employee could have aired her concerns at a better time or in a better way and created unnecessary confusion or turmoil by expressing herself in the way she did. Cf. Khuans v. School Dist. 110, 123 F.3d 1010, 1017 (7th Cir.1997) (holding that teacher's complaints disrupted daily routine of school); Breuer v. Hart, 909 F.2d 1035, 1040 (7th Cir.1990) (explaining that complaint was filed in an appropriate manner, even though it legitimately addressed a matter of public concern).

The district court applied this factor in the defendants' favor because it found that Myers expressed her concerns to a limited audience that could not change city policy but could render economic harm to Parsons'. However, the fact that she spoke to a limited audience was not particularly disruptive to the government. In fact, her actions seemed discreet, in that she could have chosen far more disruptive forums, such as writing a letter to the local newspaper or appearing at a city council meeting. By Myers' action, the mall management and Parsons' may have complained to the city about the permit problem, but this seems a very limited form of disruption. Also, the district court noted that the mall manager believed Myers' comments were motivated by frustration with the city. This latter conclusion merely speaks to Myers' intent and is irrelevant to whether Myers chose the appropriate time, place and manner for her remarks. Assuming that Myers chose this forum, rather than had it chosen for her by the mall manager, it seems to be the least disruptive forum she could have picked. In addition, there were several factual questions regarding the conversation Myers had with the mall manager that the district court resolved against Myers, rather than in her favor as required on a summary judgment motion.

B. Qualified Immunity

12 Finally, the district court found that Hasara and Danner were entitled to qualified immunity. A government official is entitled to immunity from suit when performing discretionary functions unless the district court determines that (1) the plaintiff alleged a constitutional injury, and (2) the legal standards applicable to the injury were clearly established at the

time. See *Harlow v. Fitzgerald*, 457 U.S. 800, 815, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) ; *Rakovich v. Wade* , 850 F.2d 1180, 1210 (7th Cir.1988) . The district court held that Myers failed to allege a constitutional injury and dismissed the suit on the basis of qualified immunity. Because we reverse the grant of summary judgment on the ground that Myers successfully raised a question of material fact regarding her First Amendment claim, we likewise reverse the court's finding that she failed to meet the burden of pleading a constitutional injury.

13 The district court further found that Hasara suspended Myers because she “had disobeyed a directive in violation of civil service rule 48(e).” In the district court's view, the constitutional standards regarding a government employer's right to discipline an employee for engaging in protected speech in disregard of a supervisor's direct order were not clearly established in 1996. However, several cases in this Circuit prior to 1996 discussed in detail the balancing of interests between a government employer's right to require obedience, confidentiality and silence against an employee's First Amendment right to speak on matters of public concern. See, e.g., *Conner v. Reinhard* , 847 F.2d 384, 390–91 (7th Cir.1988) ; *O'Brien v. Town of Caledonia* , 748 F.2d 403, 406–07 (7th Cir.1984) ; *Hanneman v. Breier*, 528 F.2d 750, 754 (7th Cir.1976) . For instance, *O'Brien* involved police department regulations that prohibited all public criticism of the department and required police officers to keep all department business confidential. 748 F.2d at 405. We held that *Pickering* demanded the department weigh the police officer's individual right to speak on matters of public concern against the department's valid right to enforce the challenged rules before disciplining an officer for violating those rules. *Id.* at 406–07. Other cases have similarly required *Pickering* analysis even though the stated reason for an employee's discipline was insubordination rather than the content of the employee's speech. See generally *Dishnow v. School Dist. of Rib Lake*, 77 F.3d 194 (7th Cir.1996) ; *Warzon v. Drew*, 60 F.3d 1234 (7th Cir.1995) . It was, therefore, clear in June 1996 that government employees had a First Amendment right to speak on matters of public concern that must be weighed against the employer's right to punish insubordination. Hasara and Danner cannot claim not to have known that disciplining Myers under these circumstances would not implicate her right to free speech.

iii. Conclusion

We hold that as a matter of law, Myers' comments regarding the city's decision not to enforce its health-code permit regulations focused on matters of public concern, and that because questions of material fact remain, summary judgment was inappropriate. This decision does not decide the merits of the factual issues one way or the other, but leaves factual determinations to a jury or a bench trial. Finally, Hasara and Danner were not entitled to qualified immunity. We therefore reverse the district court's grant of summary judgment and remand the case for further proceedings.

From: [REDACTED]
Sent: Wednesday, September 17, 2014 4:15 PM
To: Andrew Wise
Cc: Phyllis Wise
Subject: Re: a document for your review and help
Attachments: 20140917 Faculty Senate Meeting Talking Points 4p.docx

Hi Phyllis and Andy:

Here's a newer version with a few more tweaks from folks.

Also, Phyllis, did Walt really call it "Article I" of the Constitution? Isn't that the one that gives Congress power?

Didn't he mean/say "the first amendment to..." instead?

Even if he misspoke, wouldn't it be confusing to repeat the mistake?

Thanks for your feedback. I think we're getting close.

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>
To: [REDACTED]
Cc: "Phyllis Wise" [REDACTED]
Sent: Tuesday, September 16, 2014 9:04:42 PM GMT -06:00 US/Canada Central
Subject: RE: a document for your review and help

Robin: Here are some comments for your consideration. Happy to discuss further if you wish.

Andy

-----Original Message-----

From: [REDACTED] [mailto:\[REDACTED\]](mailto:[REDACTED])
Sent: Tuesday, September 16, 2014 6:09 PM
To: Wise, Andrew
Cc: Phyllis Wise
Subject: Re: a document for your review and help

Hi again, Andy:

Try this one instead!

It was so good to talk with you.

You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]

r

----- Original Message -----

From: "Andrew Wise" <awise@milchev.com>

To: [REDACTED]

Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central

Subject: RE: a document for your review and help

Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.

Andy

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]]

Sent: Tuesday, September 16, 2014 5:12 PM

To: Wise, Andrew

Cc: Phyllis Wise

Subject: a document for your review and help

Hi Andy:

Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

Your thoughts?

r

From: on behalf of [REDACTED]
Sent: Wednesday, September 17, 2014 4:23 PM
To: Phyllis Wise
Subject: Re: a document for your review and help

Will do!

----- Original Message -----

From: "Phyllis Wise" [REDACTED]
To: [REDACTED]
Cc: "Andrew Wise" <awise@milchev.com>
Sent: Wednesday, September 17, 2014 4:19:42 PM GMT -06:00 US/Canada Central
Subject: Re: a document for your review and help

We should check with Menah. She took notes.

Sent from my iPad

> On Sep 17, 2014, at 2:15 PM, [REDACTED] wrote:
>
>
>
> Hi Phyllis and Andy:
>
> Here's a newer version with a few more tweaks from folks.
>
> Also, Phyllis, did Walt really call it "Article I" of the Constitution? Isn't that the one that gives Congress power?
>
> Didn't he mean/say "the first amendment to..." instead?
>
> Even if he misspoke, wouldn't it be confusing to repeat the mistake?
>
>
> Thanks for your feedback. I think we're getting close.

> r

>

>

> ----- Original Message -----

> **From:** "Andrew Wise" <awise@milchev.com>
> **To:** [REDACTED]
> **Cc:** "Phyllis Wise" [REDACTED]
> **Sent:** Tuesday, September 16, 2014 9:04:42 PM GMT -06:00 US/Canada Central
> **Subject:** RE: a document for your review and help

>
> Robin: Here are some comments for your consideration. Happy to discuss further if you wish.
>

> Andy

>

> -----Original Message-----

> From: [REDACTED] [mailto:[REDACTED]]

> Sent: Tuesday, September 16, 2014 6:09 PM

> To: Wise, Andrew

> Cc: Phyllis Wise

> Subject: Re: a document for your review and help

>

>

> Hi again, Andy:

>

> Try this one instead!

>

> It was so good to talk with you.

>

> You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]

> r

>

>

> ----- Original Message -----

> From: "Andrew Wise" <awise@milchev.com>

> To: [REDACTED]

> Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central

> Subject: RE: a document for your review and help

>

> Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.

>

> Andy

>

> -----Original Message-----

> From: [REDACTED] [mailto:[REDACTED]]

> Sent: Tuesday, September 16, 2014 5:12 PM

> To: Wise, Andrew

> Cc: Phyllis Wise

> Subject: a document for your review and help

>

>

> Hi Andy:

>

> Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.

>

> Your thoughts?

>

> r

>

>

>

>

>

>

>

>

> <20140917 Faculty Senate Meeting Talking Points 4p.docx>

From: on behalf of [REDACTED]
Sent: Thursday, September 18, 2014 6:03 AM
To: Phyllis Wise
Subject: Re: a document for your review and help

I didn't realize she was already working on it. Will talk with her first thing this morning.

----- Original Message -----

From: "Phyllis Wise" [REDACTED]
To: [REDACTED]
Cc: "Andrew Wise" <awise@milchev.com>
Sent: Wednesday, September 17, 2014 10:37:12 PM GMT -06:00 US/Canada Central
Subject: Re: a document for your review and help

Robin,

I spoke with Scott tonight. I will ask Menah to be at any meeting that I have with him. And I will be really careful. I'll talk with Andy over the weekend before we schedule anything. Have you spoken with Phyllis M to stop her from scheduling anything?

Phyllis

On Wednesday, September 17, 2014 9:05 PM, [REDACTED]n" [REDACTED]m> wrote:

I'll work on better wording for that section tomorrow, Andy. thanks!

Phyllis, I'm having major second thoughts about encouraging you to talk with Fred. I'm thinking of all sorts of horrible outcomes. Would you talk to Andy about it and get his good advice? I think with the possible litigation ahead, it's best not to do that. Maybe do that after a settlement is reached?

Thanks!

r

p.s. Andy, it was the journ prof, not the law one who might have misspoken. :)

----- Original Message -----

From: "Phyllis Wise" <[REDACTED]>

To: "Andrew Wise" <awise@milchev.com>

Cc: [REDACTED]

Sent: Wednesday, September 17, 2014 5:16:27 PM GMT -06:00 US/Canada Central

Subject: Re: a document for your review and help

Thanks, Andy!

Sent from my iPad

> On Sep 17, 2014, at 2:58 PM, "Wise, Andrew" <awise@milchev.com> wrote:

>

> If he said Article I, then you need to do a better job vetting law faculty too. Even if he did, I'm sure he was talking about the First Amendment and you should reference it that way. Article I says Congress shall consist of a Senate and House of Representatives.

>

> I think this version looks good. The sentence in the first sub-bullet that reads "Many people found these statements inconsistent with the kind of learning environment that fosters open discussion" is one I would reconsider. If this is supposed to be a reference to the many emails you received, I would characterize them in the more colloquial terms that I imagine were used: offensive, threatening, divisive, etc. This sounds too tame to me.

>

> -----Original Message-----

> From: Phyllis Wise [mailto:[REDACTED]]

> Sent: Wednesday, September 17, 2014 5:20 PM

> To: [REDACTED]

> Cc: Wise, Andrew

> Subject: Re: a document for your review and help

>

> We should check with Menah. She took notes.

>

> Sent from my iPad

>

>> On Sep 17, 2014, at 2:15 PM [REDACTED] wrote:

>>

>>

>>

>>

>> Hi Phyllis and Andy:

>>

>> Here's a newer version with a few more tweaks from folks.

>>

>> Also, Phyllis, did Walt really call it "Article I" of the Constitution? Isn't that the one that gives Congress power?

>>

>> Didn't he mean/say "the first amendment to..." instead?

>>

>> Even if he misspoke, wouldn't it be confusing to repeat the mistake?

>>
>>
>> Thanks for your feedback. I think we're getting close.
>> r
>>
>>
>> ----- Original Message -----
>> From: "Andrew Wise" <awise@milchev.com>
>> To: [REDACTED]
>> Cc: "Phyllis Wise" <[REDACTED]>
>> Sent: Tuesday, September 16, 2014 9:04:42 PM GMT -06:00 US/Canada Central
>> Subject: RE: a document for your review and help
>>
>> Robin: Here are some comments for your consideration. Happy to discuss further if you wish.
>>
>> Andy
>>
>> -----Original Message-----
>> From: [REDACTED] [mailto:[REDACTED]]
>> Sent: Tuesday, September 16, 2014 6:09 PM
>> To: Wise, Andrew
>> Cc: Phyllis Wise
>> Subject: Re: a document for your review and help
>>
>>
>> Hi again, Andy:
>>
>> Try this one instead!
>>
>> It was so good to talk with you.
>>
>> You are a chip off the ole' block, and you've earned the name Wise, just like [REDACTED]
>> r
>>
>>
>> ----- Original Message -----
>> From: "Andrew Wise" <awise@milchev.com>
>> To: [REDACTED]
>> Sent: Tuesday, September 16, 2014 4:18:23 PM GMT -06:00 US/Canada Central
>> Subject: RE: a document for your review and help
>>
>> Robin: I'm happy to look and comment. Do you have 10 minutes to talk so that I'm focusing on the right issues -- I'd be particularly interested in the things you think she can't say.
>>
>> Andy
>>
>> -----Original Message-----
>> From: [REDACTED] [mailto:[REDACTED]]
>> Sent: Tuesday, September 16, 2014 5:12 PM
>> To: Wise, Andrew
>> Cc: Phyllis Wise
>> Subject: a document for your review and help
>>

>>
>> Hi Andy:
>>
>> Here is the initial draft [REDACTED] mentioned. It contains some words I don't think she can say.
>>
>> Your thoughts?
>>
>> r
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>> <20140917 Faculty Senate Meeting Talking Points 4p.docx>
>

From: on behalf of [REDACTED]
Sent: Thursday, September 18, 2014 6:10 AM
To: Michael LeRoy
Subject: Re:

Hi Michael:

I'll let her know. Have you shared with Scott Rice? The point about taking a year's leave is an especially good one.

Thanks,
r

----- Original Message -----

From: "Michael LeRoy" <[REDACTED]>
To: "Robin Kaler" <[REDACTED]>
Sent: Wednesday, September 17, 2014 10:11:05 PM GMT -06:00 US/Canada Central

Robin,

I've been in touch with a full professor in in Indian Studies program at an elite public university. Her thoughts are very interesting. This professor is a Native American. You'll see why I mention this.

You may share or delete-- I simply don't want to take undue advantage of my access. (Sadly for you, this concern for others does not apply!) Seriously, you can be my gatekeeper.

Michael

....

From: _____
Sent: Wednesday, September 17, 2014 6:40 PM
To: Leroy, Michael H
Subject:

Michael,

I have a good sense of how divisive it's been, and what really went down during the hiring process. Saliata was a student of Robert Allen Warrior's back at Oklahoma, and he and Saliata have come up with a term known as "redwashing," which claims that Israel is misusing analogies of Jews being indigenous peoples and Indians being indigenous peoples to

make claims to the land. It's academic hogwash at its best, and has no real basis in anything--but it makes Saliata a native studies scholar (sorta).

Saliata's hiring should have been coughed back up like a hairball at the Dean's level, if for no other reason than there are already too many lit. people in that program. My opinion has nothing to do with his (vile) tweets and everything to do with his utter lack of qualifications for any job in NAS. As an American Indian myself, I am utterly offended that the program did not take the opportunity to hire a Native scholar (there are many fine ones out there), and instead engaged in nepotism of the lamest sort.

Robert Allen Warrior is personally a nice guy, and there are some great people at Illinois, but if they wanted Saliata so bad, they should have bribed whatever Middle Eastern Studies program you have to take him. I don't see Virginia Tech trying to get him back, nor anyone else snapping him up. I really hope your school stands its ground here, and moreover doesn't give Saliata a dime. He should have taken a year's leave from Virginia tech, which is what anyone with tenure does when changing schools. No one in their right mind quits their tenured position until the final OK shows up, and he knew perfectly well that he didn't have it.

Best,

Message

From: Phyllis Wise [REDACTED]
Sent: 9/18/2014 4:18:53 PM
To: Michael LeRoy [REDACTED]
CC: [REDACTED]
Subject: Re: Myers v. Hasara

Indeed, Michael, it should not be you who reaches out to the students. Mitch should do that if he wants to.

Robin has warned me and others not to use email since we are now in litigation phase. We are doing virtually nothing over our Illinois email addresses. I am even being careful with this email address and deleting after sending.

Phyllis

Sent from my iPad

On Sep 18, 2014, at 2:43 PM, Michael LeRoy [REDACTED] wrote:
Phyllis,

These are splendid ideas; and I will reach out to Mitch (with whom I already have corresponded).

Following on this idea, I think that having Mitch mobilize that base would be more effective than an e-mail to students from me.

Robin, could you reach out, please, to Lynn and Chris, or alternatively, send me contact information?

Phyllis, whatever time this takes, we have to make this investment, on the merits but also as a matter of principle to preserve the supremacy of BOT governance; and the tide has shifted decisively on our side. We can be influenced by protest, but not governed by it.

There is a conversation taking place between the support team and Roy Campbell that is summarized by this note:

From: Leroy, Michael H
Sent: Thursday, September 18, 2014 3:26 PM
To:
Cc:
Subject:

Thanks so much, ____.

I hope we can get further clarification.

If a motion to vote can be entertained without being an agenda item, it would seem to defeat the notice provision in the bylaws.

In more practical terms, I would contact more people if I knew a vote was a real possibility; but if a vote cannot be scheduled without being an agenda item, I would take a more laid-back approach to the meeting.

Thanks in advance.

Michael

PS: The possibility that an **ambush vote** *could* occur really offends my democratic sensibilities, especially given the extreme gravity of the putative vote, and its possible late-timing in a marathon meeting.

Michael H. LeRoy

Michael H. LeRoy

Professor

School of Labor & Employment Relations & College of Law

University of Illinois at Urbana-Champaign

(217) 244-4092

&

Lecturer in Law, University of Chicago Law School

On Thu, Sep 18, 2014 at 3:25 PM, Phyllis Wise [REDACTED] wrote:
Michael,

Thanks so much for letting us know. The Student Senate President, Mitch Dickey, may want to know about this, so that his colleagues are ready. I also met with Chris Isenhower, the chair of the Student Alumni Ambassadors (I will be meeting with the group of student leaders that he meets with regularly on Tuesday evening). Lynn Cheney is the Alumni Association staff member who supports the students. Both Chris and Lynn may want to know. In addition, Robin, I hope Renee Romano knows.

Thanks so much for your continuing efforts. This is taking so much of your precious time!
Phyllis

Sent from my iPad

On Sep 18, 2014, at 1:19 PM, Michael LeRoy [REDACTED] wrote:
Dear Phyllis and Robin,

I was planning on not contacting either of you today, or the next day, and so forth; but please be aware of

<https://www.facebook.com/events/791869584202990/>

I contacted every student senator on August 29 via e-mail to explain, in two sentences, why I strongly support our Chancellor.

In light of the new FB post, I will reach out again with a low-key, short message to encourage their attendance (without referencing the protest).

I, or a member of our faculty support team, will contact [REDACTED]

In this instance, we will refer to the protest; but we will also ask [REDACTED] to organize a well-behaved and orderly support group of students.

I am waiting for several hours to give time to my team to reply and share their thoughts.

If either one of you would like to add or modify this tentative plan, please let me know.

From my very limited vantage point, things seem to be significantly quieting down among faculty members, and from the support side of the equation, I don't think we should do anything that is provocative or otherwise stirs the pot.

On the other hand, I don't think our support team should be complacent.

Michael

On Wed, Sep 17, 2014 at 1:03 PM, Phyllis Wise <[REDACTED]> wrote:
Michael,

Thank you for making me aware of this.

Phyllis

Sent from my iPad

On Sep 17, 2014, at 9:24 AM, Michael LeRoy <[REDACTED]> wrote:

I ran across a case in which Karen Hasara was sued in her capacity a mayor of Springfield by an employee who alleged a violation of First Amendment rights.

I mentioned this to Robin simply to suggest that Ms. Hasara might be a useful, personal resource for Phyllis-- as much from a coaching (and calming) perspective as anything else.

I passed the case along to Scott Rice; but I consider [REDACTED]
[REDACTED]

The Seventh Circuit Court of Appeals ruled for the terminated employee, **but** this is misleading: the ruling was whether the health officials critical statements were "public" in nature (as opposed to a private grievance about her work). The point is that Mayor Hasara did not lose the case-- she only lost an issue in this ruling-- only that the case was ordered to trial (or was settled).

My database has 80+ faculty cases with a First Amendment issue (and growing), and the trend on this issue (not others) is quite favorable-- but there are adverse precedents, too.

Personally, I am optimistic on this issue due to statistical indicators of court behavior.

Anyway, in case you want to read the Hasara case, here it is.

i am meeting with Scott this afternoon.

No reply is necessary.

Be positive, always.

I am looking forward to the medical school concept moving forward, a far more important matter.

Michael

Meyers v. Hasara, 226 F.3d 821 (7th Cir. 200)

[James P. Baker](#) (argued), Springfield, IL, for Plaintiff–Appellant.

[Robert M. Rogers](#), City of Springfield, [Bradley B. Wilson](#) (argued), Corporation Counsel, Springfield, IL, for Defendants–Appellees.

Before [WOOD, Jr.](#), [KANNE](#) and [DIANE P. WOOD](#), Circuit Judges.

[KANNE](#), Circuit Judge.

At the behest of its mayor, the City of Springfield suspended health inspector Cynthia Myers for comments she made regarding an open-air produce market that allegedly had been operating in violation of city and state law. Myers considered the punishment a violation of her constitutional rights and sued the mayor and health department director under [42 U.S.C. § 1983](#). T

he district court granted the defendants summary judgment on the merits and also ruled that the defendants were entitled to qualified immunity because the law regarding discipline of public employees for exercising their First Amendment rights was not clearly established at the time of Myers' suspension. However, because the district court resolved factual disputes in favor of the defendants, we hold that summary judgment was not warranted in this case.

Furthermore, the standards concerning a public employer's authority to punish an employee for exercising rights guaranteed under the First Amendment were well established at the time of the events in question, and therefore qualified immunity was not justified. We reverse the grant of summary judgment and remand for trial.

i. History

Cynthia Myers worked as a supervisor and health inspector in Springfield's health inspection program. In that role, she oversaw the food inspection program, supervised five inspectors and performed routine health inspections of

restaurants, markets and stores for compliance with city and state health codes. Myers' boss was Steve Hall, the head of the Public Health Department Environmental Division, who reported to defendant Gail Danner, the acting head of the Public Health Department. Danner reported to Keith Haynes, the director of community services, who reported directly to defendant Karen Hasara, the Springfield mayor.

Although several steps removed from the pinnacle of Springfield power, Myers had some supervisory duties in her job and was called on to participate in making division decisions and formulating policies. The Springfield health department, in addition to enforcing its own ordinances, had entered into an agreement with the state to enforce the state's health laws. Furthermore, the city's health ordinances were required to be no less stringent than the state's. In 1995, a business called Parsons' Produce operated an open-air market in the parking lot of a local department store. Parsons' sold fruit and vegetables under an agricultural commodity permit, which permitted the sale of fresh produce, but not packaged food products. The restriction on selling packaged foods stems from the increased risk of infestation and contamination in an open-air market and the recognition that the consumer typically knows to inspect and wash fresh food, but may not do the same with packaged products.

Myers inspected Parsons' Produce in 1995 and found that it was selling packaged food products in an open-air market in violation of state and local laws. Of the six businesses operating under an agricultural commodity permit in the city, only Parsons' sold packaged foods. Myers filed her report with Danner and Hall, who visited Parsons' and confirmed Myers' finding. Hall voiced concerns to Danner and Haynes about Parsons', which led to a meeting with the state health department, which then formally notified Haynes that Parsons' was in violation of state health laws. The city's legal department notified Haynes that Parsons' was in violation of city and state health laws, and that the city ordinance could not be amended to allow Parsons' to continue to operate as it was without losing state funding for the program. At the same time, Hall sent Haynes a memorandum encouraging the enforcement action against Parsons'. Hasara took office in 1995 and was informed of the situation with Parsons'. Several other meetings took place over the course of 1995, but no action was taken against Parsons' to stop it from selling packaged food products. Parsons' closed for the season in the fall of 1995.

In 1996, Parsons' reopened and expanded into a second location at a local mall. Myers again inspected its facility. Myers found that Parsons' continued to sell packaged food products without the proper license, and reported this finding to Danner. Knowing that it was operating in violation of the permit, Myers refused to act on its application for a new agricultural commodity permit. Hall supported Myers' position and refused to approve the permit application. Danner, however, acting on the directions of her superiors, approved the permit and informed Myers that she did not need to take any further action regarding Parsons'. The defendants claim that they gave Myers a clear directive to have no further involvement with Parsons', but Myers disputes this factual contention.

Hasara, Danner and Haynes met with state health officials in May 1996 and discussed the Parsons' permit situation. Hasara believed Parsons' was not violating the law and voiced support for Parsons'. State health officials disagreed, but allowed that it was a local matter and said the state health department would not interfere. Hasara instructed Danner and Haynes to allow Parsons' to operate as it had before. Myers had no other involvement with the permit issue, but responded to two complaints—one in May, the other in July—regarding Parsons'. Parsons' complained to Haynes that Myers was harassing it. Haynes investigated, but found no evidence to support the complaint.

Later in May, the local newspaper published an article concerning Parsons' and the health inspections, reporting that the market continued to operate in violation of city and state health codes. On May 30, while inspecting a restaurant at the mall where Parsons' operated one of its markets, Myers and another health inspector met with an assistant manager of the mall. Myers asked the manager whether he had seen the newspaper article, to which he responded that he had. In response to the manager's questions, Myers said that Parsons' was in violation of its permit and the city had decided to take no action against it. The mall manager was concerned about the mall's potential liability for health dangers caused by one of its tenants, and Myers indicated that she thought landlords could be held liable for the actions of their tenants.

Jeff Parsons, the owner of Parsons' Produce, soon found out about Myers' conversation with the mall manager, and complained to the mayor's office. Hasara wanted to fire Myers for expressing views contradictory to the city's policy on the issue, but Danner, Haynes and the city personnel director felt that termination was unwarranted. Hall also objected to disciplinary action against Myers. Instead, Myers was charged with failing to obey a reasonable directive and a hearing was held on the charge, at which Danner presided. On June 21, 1996, Myers was suspended for five days. No other action was taken against her.

Myers filed a two-count complaint against Hasara and Danner, alleging deprivations of her First and Fourteenth Amendment rights. After discovery, the defendants moved for summary judgment on the grounds that Myers' comments to the mall manager did not involve a matter of public concern, the city's interest in effective health inspection administration outweighed Myers' First Amendment rights and, in any event, Danner and Hasara were entitled to qualified immunity. The district court, applying the test for public-employee speech established in [*Pickering v. Board of Education*, 391 U.S. 563, 88 S.Ct. 1731, 20 L.Ed.2d 811 \(1968\)](#), agreed on all three grounds and granted the defendants summary judgment. This appeal followed.

il. Analysis

¹²³ We review *de novo* a grant of summary judgment, see [*Weicherding v. Riegel*, 160 F.3d 1139, 1142 \(7th Cir.1998\)](#), as well as a district court's decision that a defendant is entitled to qualified immunity. See [*Forman v. Richmond Police Dep't*, 104 F.3d 950, 956–57 \(7th Cir.1997\)](#). Summary judgment is proper when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” [*Fed.R.Civ.P. 56\(c\)*](#); see also [*Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23, 106 S.Ct. 2548, 91 L.Ed.2d 265 \(1986\)](#). In determining whether a genuine issue of material fact exists, we construe all facts in the light most favorable to the non-moving party and draw all reasonable and justifiable inferences in favor of that party. See [*Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 106 S.Ct. 2505, 91 L.Ed.2d 202 \(1986\)](#).

A. Pickering Balancing

⁴ In her complaint, Myers alleged that she had a protected First Amendment right to make the comments she did to the mall manager regarding Parsons' permit situation and the city's policy of not enforcing the relevant ordinance. The Supreme Court has long held that a public employee maintains a First Amendment right to speak out on matters of public concern even though she works for the government. See [*Pickering*, 391 U.S. at 568, 88 S.Ct. 1731](#); see also [*Connick v. Myers*, 461 U.S. 138, 142, 103 S.Ct. 1684, 75 L.Ed.2d 708 \(1983\)](#). A public employee can be punished for exercising that right only if the facts of the case, as reasonably known to the employer, indicate that the employer's interest in promoting efficiency of public services outweighs the employee's interest in free speech. See [*Waters v. Churchill*, 511 U.S. 661, 668, 114 S.Ct. 1878, 128 L.Ed.2d 686 \(1994\)](#); [*Pickering*, 391 U.S. at 568, 88 S.Ct. 1731](#). Courts after *Pickering* have engaged in a two-part analysis to determine whether the “interests of the [employee], as a citizen, in commenting upon matters of public concern” outweighed the “interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Id.*

1. Matters of Public Concern

⁵⁶ In [*Hulbert v. Wilhelm*, 120 F.3d 648, 653 \(7th Cir.1997\)](#), we re-stated the *Pickering* analysis as a three-part inquiry, although still addressing the core concern identified in *Pickering*. We held that the first part of *Pickering* sought to determine (1) whether the speech would be protected if uttered by a private citizen and (2) whether the speech was more than an unprotected “personal employee grievance.” [*Hulbert*, 120 F.3d at 653](#). If so, then we would consider the speech to meet the test for speech by a citizen on a matter of public concern. See *id.* A number of factors are relevant to this analysis including the content, form and context of the remarks, see [*Connick*, 461 U.S. at 147–48, 103 S.Ct. 1684](#), and whether the remarks can fairly be characterized as relating to issues of “political, social, or other concern to the community.” *Id.* at 146, 103 S.Ct. 1684.

The district court held that the subject of Myers' comments was not a matter of public concern. We disagree. It is important to good government that public employees be free to expose misdeeds and illegality in their departments.

Protecting such employees from unhappy government officials lies at the heart of the *Pickering* cases, and at the core of the First Amendment. For example, in [*Marshall v. Porter County Plan Commission*, 32 F.3d 1215, 1218 \(7th Cir.1994\)](#), the plaintiff, an employee in the building inspector's office, told the county planning commission that required inspections were not being done and provided a list showing that half of the required inspections had not been performed. The commission took no action, but later fired her in part because of her complaints regarding the building inspections. We held that the activities about which the plaintiff complained “were the type that result in the misuse of public funds and trust. These were not employment disputes or criticisms of the way that only [plaintiff's] job was affected.” [*Id.* at 1219–20](#). As a matter of law, we found these comments to be about matters of public concern. [*Id.* at 1220](#).

Myers' comments to the mall manager are analogous. The city had a duty to enforce both its own and the state's food-inspection laws. There is no doubt that the inspection laws were valid and routinely enforced and that Parsons' practice of carrying packaged food products violated its permit. For whatever reason, the mayor and department head had decided not to enforce the law against Parsons' despite the city's duty to do so. Food-inspection rules, even ones that do not threaten cataclysmic harm, serve to protect the public health from risks of contamination. Like the plaintiff in *Marshall*, Myers found it objectionable that her department would refuse to enforce the law. The content of her comments to the mall manager involved a matter of public concern.

[7](#) Following *Hulbert*, we find that Myers' criticism of the city for turning a blind eye to a known permit violation and potential health risk would have been protected if uttered by a private citizen and was more than a personal employee grievance. In fact, it bore no relation to the *827 gripes about office policies, scheduling and personnel decisions like those at issue in *Connick*, where the Court held that such employee grievances were not matters of public concern. [461 U.S. at 148, 103 S.Ct. 1684](#). The district court, examining the “content” of Myers' remarks, found that because she focused on Parsons' licensing problem, she was concerned not with a public health hazard but with her own dispute with her supervisors. [Myers v. Hasara, 51 F.Supp.2d 919, 926–27 \(C.D.Ill.1999\)](#). We disagree. Whistleblowing does not need to be limited to systemic charges of corruption to qualify as a matter of public concern. A specific violation of a law that creates a risk to public health, safety or good governance likewise is a matter of public concern. Myers knew of one such violation and reported it to an obviously concerned party who she knew would take action on it. The fact that “her exact language is directed specifically at Parsons',” [Myers, 51 F.Supp.2d at 927](#), made sense considering that she perceived it to be a public health risk.

[8](#) Furthermore, a “personal aspect contained within the motive of the speaker does not necessarily remove the speech from the scope of public concern.” [Marshall, 32 F.3d at 1219](#). Myers' disgust or frustration about the city's decision to ignore a health-code violation does not mean that her complaint was not a public concern. While the speaker's motivation is relevant to the *Pickering* analysis, it is not necessarily dispositive, [see Gregorich v. Lund, 54 F.3d 410, 415 \(7th Cir.1995\)](#); [Colburn v. Trustees of Indiana Univ., 973 F.2d 581, 587 \(7th Cir.1992\)](#), and does not transform Myers' remarks into matters of private concern in this case. We disagree with the district court that she spoke “more as a disgruntled employee” or that her remarks in some way were a personnel grievance. We hold that the speech for which Myers was disciplined related to a matter of public concern, precluding summary judgment for the defendants on this issue.

2. The City's Interest

[9](#) The district court found that the city's interest in “promoting efficient and effective public service outweighed Plaintiff's right to express herself.” [Myers, 51 F.Supp.2d at 928](#). However, in doing so, the district court resolved disputed issues of material fact in the defendant's favor, thereby rendering summary judgment improper. To answer the second part of the *Pickering* test, we have identified seven factors to consider. [See Kokkinis v. Ivkovich, 185 F.3d 840, 845 \(7th Cir.1999\)](#); [Wright v. Illinois Dep't of Children & Fam. Servs., 40 F.3d 1492, 1502 \(7th Cir.1994\)](#). Among those relevant to the summary judgment in this case are whether the speech created disharmony in the workplace and whether the employment relationship requires personal loyalty and confidence. [See id.](#) Both of these factors were influenced by the question of whether Myers had been given a clear directive not to discuss the issue further.

The district court disregarded this question rather than resolve it in Myers' favor. In the district court's opinion, the issue was irrelevant because Hasara reasonably believed that Myers had been given the order. We disagree. Myers was suspended for violating a superior's order, an offense that undoubtedly raises a legitimate governmental interest. However, the parties dispute whether Myers was given this order. If she was not, then her remarks to the mall manager were not in violation of a clear directive, and the governmental interest in having employees follow orders and accurately portray the agency's policies was not implicated. Therefore, this issue goes to the heart of Myers' complaint and should have been resolved in her favor for purposes of summary judgment.

10 The district court further found that Myers' actions created disharmony because city officials disagreed about how or whether she should be punished. [*Myers*, 51 F.Supp.2d at 928](#). This analysis treats the "disharmony" factor in a *Pickering* claim in a way that could prevent plaintiffs from ever prevailing. The disharmony that undermines the government interest in efficient and effective service stems from the content of the speech itself, such as by undermining public confidence in the agency or contradicting the agency's public message. We would imagine that in most *Pickering* claims, government officials debated the proper punishment for the speaker. This cannot be the source of the relevant disruption or disharmony since it would weigh against every plaintiff. Just as disharmony was present when the superiors discussed Myers' punishment, it would have been absent had they not sought to punish her.

11 Another factor to consider in balancing the government's interest is whether the time, place or manner of the employee's speech disrupted the government's provision of services. See [*Coady v. Steil*, 187 F.3d 727, 731 \(7th Cir.1999\)](#); [*Wright*, 40 F.3d at 1502](#). This analysis questions whether the employee could have aired her concerns at a better time or in a better way and created unnecessary confusion or turmoil by expressing herself in the way she did. Cf. [*Khuans v. School Dist.* 110, 123 F.3d 1010, 1017 \(7th Cir.1997\)](#) (holding that teacher's complaints disrupted daily routine of school); [*Breuer v. Hart*, 909 F.2d 1035, 1040 \(7th Cir.1990\)](#) (explaining that complaint was filed in an appropriate manner, even though it legitimately addressed a matter of public concern).

The district court applied this factor in the defendants' favor because it found that Myers expressed her concerns to a limited audience that could not change city policy but could render economic harm to Parsons'. However, the fact that she spoke to a limited audience was not particularly disruptive to the government. In fact, her actions seemed discreet, in that she could have chosen far more disruptive forums, such as writing a letter to the local newspaper or appearing at a city council meeting. By Myers' action, the mall management and Parsons' may have complained to the city about the permit problem, but this seems a very limited form of disruption. Also, the district court noted that the mall manager believed Myers' comments were motivated by frustration with the city. This latter conclusion merely speaks to Myers' intent and is irrelevant to whether Myers chose the appropriate time, place and manner for her remarks. Assuming that Myers chose this forum, rather than had it chosen for her by the mall manager, it seems to be the least disruptive forum she could have picked. In addition, there were several factual questions regarding the conversation Myers had with the mall manager that the district court resolved against Myers, rather than in her favor as required on a summary judgment motion.

B. Qualified Immunity

12 Finally, the district court found that Hasara and Danner were entitled to qualified immunity. A government official is entitled to immunity from suit when performing discretionary functions unless the district court determines that (1) the plaintiff alleged a constitutional injury, and (2) the legal standards applicable to the injury were clearly established at the time. See [*Harlow v. Fitzgerald*, 457 U.S. 800, 815, 102 S.Ct. 2727, 73 L.Ed.2d 396 \(1982\)](#); [*Rakovich v. Wade*, 850 F.2d 1180, 1210 \(7th Cir.1988\)](#). The district court held that Myers failed to allege a constitutional injury and dismissed the suit on the basis of qualified immunity. Because we reverse the grant of summary judgment on the ground that Myers successfully raised a question of material fact regarding her First Amendment claim, we likewise reverse the court's finding that she failed to meet the burden of pleading a constitutional injury.

13 The district court further found that Hasara suspended Myers because she "had disobeyed a directive in violation of civil service rule 48(e)." In the district court's view, the constitutional standards regarding a government employer's right to discipline an employee for engaging in protected speech in disregard of a supervisor's direct order were not

clearly established in 1996. However, several cases in this Circuit prior to 1996 discussed in detail the balancing of interests between a government employer's right to require obedience, confidentiality and silence against an employee's First Amendment right to speak on matters of public concern. See, e.g., [Conner v. Reinhard, 847 F.2d 384, 390–91 \(7th Cir.1988\)](#); [O'Brien v. Town of Caledonia, 748 F.2d 403, 406–07 \(7th Cir.1984\)](#); [Hanneman v. Breier, 528 F.2d 750, 754 \(7th Cir.1976\)](#). For instance, *O'Brien* involved police department regulations that prohibited all public criticism of the department and required police officers to keep all department business confidential. [748 F.2d at 405](#). We held that *Pickering* demanded the department weigh the police officer's individual right to speak on matters of public concern against the department's valid right to enforce the challenged rules before disciplining an officer for violating those rules. [Id. at 406–07](#). Other cases have similarly required *Pickering* analysis even though the stated reason for an employee's discipline was insubordination rather than the content of the employee's speech. See generally [Dishnow v. School Dist. of Rib Lake, 77 F.3d 194 \(7th Cir.1996\)](#); [Warzon v. Drew, 60 F.3d 1234 \(7th Cir.1995\)](#). It was, therefore, clear in June 1996 that government employees had a First Amendment right to speak on matters of public concern that must be weighed against the employer's right to punish insubordination. Hasara and Danner cannot claim not to have known that disciplining Myers under these circumstances would not implicate her right to free speech.

iii. Conclusion

We hold that as a matter of law, Myers' comments regarding the city's decision not to enforce its health-code permit regulations focused on matters of public concern, and that because questions of material fact remain, summary judgment was inappropriate. This decision does not decide the merits of the factual issues one way or the other, but leaves factual determinations to a jury or a bench trial. Finally, Hasara and Danner were not entitled to qualified immunity. We therefore reverse the district court's grant of summary judgment and remand the case for further proceedings.

To: joyce tolliver
From: Tolliver, Joyce L
Subject: Fwd: Meeting next week
Sent: Fri Sep 19 07:42:17 2014
Importance: Normal

Begin forwarded message:

From: "Pitard, Wayne T" <wpitard@illinois.edu<mailto:wpitard@illinois.edu>>
Subject: Meeting next week
Date: September 12, 2014 at 11:27:52 AM CDT
To: "Higgins, Christopher Roy" <crh4@illinois.edu<mailto:crh4@illinois.edu>>, Tamara Chaplin
<[REDACTED]>, "Hammack, William S"
<whammack@illinois.edu<mailto:whammack@illinois.edu>>, "Tolliver, Joyce L"
<joycet@illinois.edu<mailto:joycet@illinois.edu>>, "Erkert, Jan K"
<erkert@illinois.edu<mailto:erkert@illinois.edu>>, "Schook, Lawrence B"
<schook@uillinois.edu<mailto:schook@uillinois.edu>>, "Iriye, Masumi"
<iriye@illinois.edu<mailto:iriye@illinois.edu>>, "Wildhagen, Liesel E"
<wildhage@illinois.edu<mailto:wildhage@illinois.edu>>
Cc: "Koester, Candace S" <ckoester@illinois.edu<mailto:ckoester@illinois.edu>>

Hi, folks. I would like to call another meeting of the committee to talk about where we should go from here about holding a forum on Academic Freedom, etc. Candace will shortly send out a request for availabilities for you to fill out.

I want us to talk about whether it seems plausible at this point to develop a forum that does not become primarily an enflamed discussion of the Salaita case. If so, when should it be held (another forum is scheduled for the end of September)? How many outside speakers should be invited, how many campus speakers should take part?

Here is a list of potential speakers proposed by committee members:



I attach Chris Higgins' list of potential speakers.

Take a look at these, and we can create a priority list should we decide to proceed now.

Wayne

Wayne T. Pitard
Director, Spurlock Museum
Professor, Department of Religion
600 S. Gregory Street

Urbana, IL 61801
(217) 333-2207
wpitard@illinois.edu<mailto:wpitard@illinois.edu>

Joyce Tolliver

Associate Professor of Spanish, Translation Studies, and Gender & Women's Studies
Associate Head, Dept. of Spanish and Portuguese
University of Illinois
Urbana IL 61801
217-244-6508
<http://www.sip.illinois.edu/people/joycet>

To: Murphy, Colleen
From: Campbell, R H
Subject: Re: A Note on the Senate Meeting this Monday, September 22
Sent: Sun Sep 21 11:20:20 2014
Importance: Normal

Dear Colleen:

My first reaction to your question is that this is a very unusual motion to have made within the department, probably the first such motion in many decades.

I am not an expert on all the bylaws (particularly about Philosophy's bylaws and about the interaction between the Senate bylaws and departmental bylaws) but I believe the Senate Constitution and Bylaws would override departmental ones.

I also note that the Constitution (<http://senate.illinois.edu/article2.asp>) says:

- * Section 11. A faculty senator can be recalled by a vote of two-thirds of the members of the senator's voting unit.

I am going to ask the opinion of three people who are much more knowledgeable about the rules.

My first guess is that because of Academic Freedom, you can do whatever you want to do. This would allow you to represent minority views as well, when you think those minority views need to be considered for the best interests of the University and the public.

But Ill try to find out more about this question and appreciate its importance to you. Ill try to get back to you later today.

Sorry I don't have an instant answer.

Roy

Roy Campbell
Sohaib and Sara Abbasi Professor of Computer Science
Siebel Center
201 N Goodwin Av, Urbana, IL 61801-2302
Tel 217-333-0215 Email rhc@illinois.edu

From: <Murphy>, Colleen <colleenm@illinois.edu<<mailto:colleenm@illinois.edu>>>
Date: Sunday, September 21, 2014 at 9:12 AM
To: Roy Campbell <rhc@illinois.edu<<mailto:rhc@illinois.edu>>>
Subject: Re: A Note on the Senate Meeting this Monday, September 22

Dear Professor Campbell,

I am the Faculty Senator representing the Department of Philosophy and write with a question of information.

The Philosophy Department held a last-minute meeting on Friday afternoon to discuss "the continuing controversy over the Steven Salaita case (and its aftermath) and the upcoming meeting of the Senate." I had a previously scheduled meeting I could not move and so was not present at the Departmental meeting on Friday.

At the meeting the following resolution was apparently discussed and is now being voted on electronically by the

members of the Department:

"The Department of Philosophy endorses RS.15.03 ("Senate Resolution on the SEC Resolution on Ad Hoc Committee Formation") and hereby instructs its Senate representative to vote in favor of that resolution (i.e., RS.15.03)."

Specifically my question is: If this passes am I bound to do as the Department instructs?

Thank you very much for your clarification, and I look forward to your answer,

Best,
Colleen

Colleen Murphy
Associate Professor of Philosophy and Law
Director, Women and Gender in Global Perspectives (WGGP) Program
University of Illinois at Urbana-Champaign

Women and Gender in Global Perspectives (WGGP) Program
319 International Studies Building, MC-401
910 S. Fifth Street
Champaign, IL 61820
Phone: 217-244-0675
Web: <http://faculty.las.illinois.edu/colleenm/>

On Sep 19, 2014, at 1:43 PM, Campbell, R H wrote:

Dear Senators:

Welcome to the Senate. I particularly send a warm welcome to our new members. We have a busy agenda for the Senate this Monday, September 22 and it contains consent agenda, seven resolutions and other topics that are of interest to many people. We have moved the meeting to the Illini Union Ballroom to accommodate this interest. Several important topics will be discussed. This note details how I hope we can get through the agenda efficiently while giving time to everyone to speak to any issues if they so desire.

If you are new to the Senate, the Illinois Open Meetings Act (OMA) does apply to Senate meetings and senators should take the OMA training: <http://foia.ilattorneygeneral.net/Training.aspx>

You may also want to avail yourself of the easy to read rules of basic parliamentary debate:
<http://www.senate.illinois.edu/parlproc20130123.pdf>.

On Monday the Chancellor will open the Senate session and I will present some opening remarks. I will then offer the following motion to allow us to finish by 5:15pm and to avoid continuing the Senate meeting next Monday 29th which is the default according to Standing Rule 1, Adjournment.

I move to continue any Senate business that is unfinished at 5:15 today to Monday 20th October.

This will require agreement by a majority (50% or more) vote.

Immediately following the Chancellor's remarks at the beginning of agenda item IV I will propose another motion to allow a general discussion:

I move that this Senate Session become a Committee of the Whole until 4:20 to allow a broad range of views and comments to be expressed on topics related to the Chancellor's remarks. The Committee of the Whole will be presided over by Roy Campbell, there will be 2 minute speaking slots.

Again this motion will require agreement by a majority (50% or more) vote. Should there be interest in continuing a Committee of the Whole, I will move that we do so on October 13th, as part of the Annual Meeting of the Faculty. This will allow us time to complete Monday's Senate business if possible, but also give time for more discussion.

Assuming these motions pass, we will then resume the normal meeting at 4:20 to consider the consent agenda and important resolutions from the Educational Policy committee and from our senators.

I hope this will give you an idea of how the meeting might run and how we may accomplish the agenda in a reasonable manner. Of course, as with all Senate business, this course of action is also subject to changes by vote of the Senate. However, with this approach, the Senate can devote the greatest part of the meeting to the discussion of important campus issues as well as complete an important set of Senate agenda items in a timely manner.

Roy Campbell

Chair of the Senate Executive Committee
Sohaib and Sara Abbasi Professor of Computer Science
Siebel Center
201 N Goodwin Av, Urbana, IL 61801-2302
Tel 217-333-0215 Email rhc@illinois.edu<<mailto:rhc@illinois.edu>>

From: Phyllis M Wise [REDACTED]
Sent: Saturday, September 27, 2014 6:35 PM
To: Douglas Beck
Subject: Re: Hello

Perfect. Thanks so much.

Sent from my iPhone

On Sep 27, 2014, at 6:23 PM, Douglas Beck [REDACTED] wrote:

Let's say 11:00--our house. Look forward to seeing you.

Doug

On Sat, Sep 27, 2014 at 3:52 PM, Phyllis M Wise [REDACTED] wrote:
Doug,

You really are amazing! Truly anytime is fine with me. Why don't you choose what works the best for you. I can come to your home or you can come here - again whatever works best for you. You are doing me a huge favor.

Phyllis

Sent from my iPhone

On Sep 27, 2014, at 3:46 PM, Douglas Beck [REDACTED] wrote:

Hi Phyllis,

I had a (physics) meeting in Chicago; just got home. Glad you are going to Krannert tonight. Let's get together tomorrow (Sun.); I'm happy to come over or vice versa. Let me know when would be best for you.

Doug

On Fri, Sep 26, 2014 at 8:50 PM, Phyllis Wise [REDACTED] wrote:
Doug,

I always value my conversations with you. I am relatively free this weekend with a few meetings starting at 8-9:30, 9:30-10, 2:30-2:45 (maybe) and then La CASA celebration at 5 and Krannert after that. Sunday is completely open. I know you are crazy busy with the search, your research, teaching and scientific meetings. But I would love to talk. We have the all faculty meeting on October 13 and the next Academic Senate meeting on October 20 (there may be a no confidence vote

there). I am figuring out how much to concentrate on the Saleita related issues and how much to concentrate on looking forward. I value your advice.

Phyllis

Sent from my iPad

On Sep 26, 2014, at 2:22 PM, Douglas Beck <[REDACTED]> wrote:

Dear Phyllis,

I hope this finds you feeling at least a little bit rested and recovered.

I don't think this is earth-shattering, but I was encouraged to share the following with you--probably things you have thought of yourself. I spent an hour with Kirk Sanders (Philosophy EO) this week--I have found him reasonable in the past. I tried to press forward to better understand what the underlying issues are, those that the Salaita uproar exposed.

The first was easy to see, persistent and widespread. There is a crisis of value, most deeply felt in the humanities. There is surely a component of self-pity and desire to play the victim; but I think we too are at fault in not taking enough time to explain how important we believe, e.g., the humanities, to be, especially their stand-alone, intrinsic value (not associated with interdisciplinary, etc. activities). I have also felt this strongly in conversations with people like Hunter Rawlings, Nick Dirks, Drew Faust and Bob Berdahl over the last couple of months. I don't have any great ideas about how to proceed, but this is clearly a broad problem extending well beyond the walls of academe.

The second issue dawned on me just after the conversation with Kirk. There seems to be a belief that the campus can operate almost completely as a democracy, where the faculty have the final say in every important decision. They somehow don't understand, or choose to ignore, all the work that goes on outside their offices that allows them to teach their classes and seminars, read and write, with little interference. I think most faculty on campus appreciate the rewards of having good leadership at all levels from department head on up--happy with and willing to accept that there are all kinds of decisions to make that they don't have to be part of. *This* may define the two cultures on campus. Perhaps there is a conversation we can have (through the senate?) to try to do a little realignment of expectations and realities with some sensible give and take. I've planted this notion with Nick--we'll see what sort of thoughts others have.

Let me know if it would be useful to talk.

Best,
Doug

To: Joyce Tolliver
From: Joyce Tolliver
Subject: reference
Sent: Tue Sep 30 16:50:31 2014
Importance: Normal

<http://www.chicagonow.com/truth-absurdity-spotting-chicago/2014/09/steven-salaita-doesnt-know-what-words-mean/>

--

Joyce Tolliver

From: Phyllis Wise [REDACTED]
Sent: Sunday, October 05, 2014 10:48 PM
To: Robin Kaler
Subject: tomorrow at UIC

Robin,

Bob told me that he will be at the UIC Annual Faculty meeting tomorrow and Christophe Pierre told me that it would be live webcast. Bob told me that they had given him 54 questions to answer including ones on Saleita and the COM. Apparently they are not allowing Paula to attend (stranger things have never happened...If I were Bob I would have said that if there is no chancellor present, I will not attend either). It might be worth it for one of your people to listen/watch the webcast as a prelude to what might happen here (I sure hope not).

Phyllis

From: Ilesanmi Adesida [REDACTED]
Sent: Monday, October 06, 2014 4:21 AM
To: Nick Burbules
Subject: Re: Trouble

Nick,
Thanks. Great analysis.
See you tonight.
Ade

On Sunday, October 5, 2014, Nick Burbules [REDACTED] wrote:
Thanks Ade

I am not surprised that they posted it immediately, because the public show of standing up to the Administration is as important to them as actually getting results.

To me there are two aspects of this, the legal and the political. Your lawyers can tell you better that I can, but I don't see any way you and HR can go public with this kind of information in the middle of a lawsuit. In fact, since I assume that they are coordinating with Salaita and his lawyers, on the one hand, and with AAUP on the other, what this looks like to me is an effort to box you in and do advance work for the legal case.

On the political side, CFA is trying very hard now to show that the Senate and shared governance aren't "standing up" enough to the Administration, defending academic freedom and fighting to get Salaita hired after all. By posing as a quasi-governance body, they would love to be able to show that THEY got "results" and got the "answers."

Meanwhile, they are blocking or interfering with the new Task Force, not because they are worried it will fail but because it might succeed in working through this event and proposing constructive, sensible policies for the future -- and they wouldn't be able to claim any credit for it.

One of my main principles is to not reward bad behavior. Just a few thoughts.

See you tomorrow!

Nick

On Sun, Oct 5, 2014 at 4:06 PM, Ilesanmi Adesida [REDACTED] wrote:
Nick,

I received this letter on Friday. I did not know that they posted it online already! Definitely, they are not a governance body. I will contact our lawyers and see what they say. Your input is highly valuable in this matter. I have to talk to Deb Stone also.
Thanks.

Ade

On Sat, Oct 4, 2014 at 9:44 PM, Nick Burbules [REDACTED] wrote:
Hello Ade

Just saw these demands for information and policy justifications from the CFA.

I don't know what their standing is to demand such documents from you and HR. They aren't a governance body.

If I can suggest, it might be best to just ignore them.

Nick

----- Forwarded message -----

<http://cfaillinois.org/2014/10/04/cfa-asks-the-provost-how-does-uiuc-define-civility/>

<http://cfaillinois.org/2014/10/04/cfa-asks-academic-hr-to-clarify-the-hiring-process/>

To: Jose Ignacio Cell
From: Jtolliver
Subject: ooh smarto
Sent: Thu Oct 09 22:53:48 2014
Importance: Normal

<http://socialistworker.org/2014/10/09/steven-salaita-is-speaking-out>

Valuable ideas disrupt, reorder, undermine, confront, subvert, unsettle, upset, menace, admonish, forebode. Critical thinking is fundamentally incompatible with conformity, which is collegiality's primary desire...Collegiality is the etiquette of submission. It's impossible to be collegial when challenging the common sense of corporate dominion, no matter how politely you state the criticism.

Now, collegiality has given way to "civility," which creates a new set of challenges to academic freedom. The usefulness of the term as a silencing mechanism is apparent by how many upper administrators have embraced it. Its basic function is identical to that of collegiality, but it more explicitly evokes colonial violence. The very act of using "uncivil" to describe supporters of Palestine (or any other site of decolonization) is a terrible irony: the accusation locates the subject in the wretchedness of subhumanity, but implicates the speaker in centuries of colonization and genocide.

Joyce Tolliver

From: on behalf of [REDACTED]
Sent: Saturday, October 11, 2014 2:40 PM
To: Jeff Unger
Subject: Re: help

A wise friend of Phyllis' from Washington recommended ignoring the crazy people. Phyllis took it to heart.

I don't know how she stays on her feet with so many people throwing things at her. I think her old friends are a real strength for her.

She was so grateful when I told her I'd consulted with you.

Thanks again for not leaving even when you left.

----- Original Message

From: "Jeff Unger" [REDACTED]
To: "Robin Kaler" [REDACTED]
Sent: Saturday, October 11, 2014 11:51:27 AM GMT -06:00 US/Canada Central
Subject: Re: help

Lots of other stuff about Correia and his relationship to the SS issue.

just one:

latest Tweets from David Correia (@DavidCorreiaABQ). Associate ... @ DavidCorreiaABQ I'm not a # salaita supporter, but Wise should resign over this.

there are many other pro-SS things under his name.

as for the other person, his bias is obvious from a quick Google search.

On Sat, Oct 11, 2014 at 11:06 AM, Robin Kaler <[REDACTED]> wrote:

It certainly makes me hold the idea of collegiality much closer in my own life.

Sent from my iPhone

On Oct 11, 2014, at 11:03 AM, Jeff Unger <[REDACTED]> wrote:

I had to stop reading his comments. Seriously.

They're so misguided, so juvenile, so unscholarly, so embarrassing, so bitter.

I'm sure there's more, but I decided I have better things to do. Like inhale and exhale.

On Sat, Oct 11, 2014 at 11:00 AM, Robin Kaler <[REDACTED]> wrote:

He is one angry person.

Sent from my iPhone

On Oct 11, 2014, at 10:55 AM, Jeff Unger <[REDACTED]> wrote:

on another matter.

from our pal, a comment above an AP story about Nick having been overlooked for a Nobel Prize:

Just another example of the inept, clueless, and totally overpaid public affairs staff at the Univ. of Illinois. Anyone worth a friggin dime could have gotten this done for him. But not the numb nuts here; too busy pitching stories to the internationally influential champaign news gazette probably.

and this, above a story about SS:

As I've said repeatedly, this stupidity is going to cost us millions of \$\$\$. But what does the BOT care? it's not their money.

I do have to add one thing: this quote "No one can recall an instance where there has ever been a vote against a hire." Uh, I can, because IT FUCKING HAPPENED TO ME!!! and no one came to my defense, not the AAUP, no one. I was left hanging in the wind, ALONE. Even now, everyone just denies it happened to me. It's like being raped, and then everyone tells you it really didn't happen.

On Sat, Oct 11, 2014 at 10:30 AM, [REDACTED] wrote:

So, now the Sun Times is asking Tom for a response. Here's what I think we'll give them and Jodi...

"I was asked to write a review in Neuroscience on work that I had published previously. By definition such reviews are written about work that has previously been published. As is standard practice in biological sciences, I included data from my original articles. I inadvertently omitted a citation of my own work, and when this omission was pointed out to me, I immediately corrected the review."

----- Original Message -----

From: "Jeff Unger" [REDACTED]

To: "Robin Kaler" <[REDACTED]>

Sent: Saturday, October 11, 2014 8:56:52 AM GMT -06:00 US/Canada Central

Subject: Re: help

Well, you obviously got no sleep.

I can't think of anything you haven't thought of about this. Seriously.

For me, the key things are these:

1) How great is the risk that going to the two reporters (Jodi and either Christine or Julie) will "backfire" and serve as a catalyst rather than a coda? I think even if stories were to result and spur other stories, this is not likely to be a long-lived story – provided there aren't other skeletons in PMW's closet, as it seems others are alleging. It would be good to know before carrying out any strategy to know whether there are, indeed, other "errors" that will be exposed. If there are, of course, this story will only get worse and become more problematic.

2) It seems like a very good idea to find respected academics beyond those in some way involved with this specific case to offer their opinions on just how "common" this sort of mistake is and just how minor or egregious it is. (I don't think Jodi and the News-Gazette would have trouble finding "independent" scholars to comment on this.)

3) If there is a connection to be found between the critics making the loudest noise and the pro-Salaita forces, it would be good to know that ahead of time. I have not tried looking on the Internet for information about the critics.

4) If I were a reporter, I likely would ask how did the error in question come about? In other words, was this merely an oversight on PMW's part or did she not know that she should have cited the work from her earlier research? That's an important distinction, I think. It, of course, raises the question as to whether she can recall ever having done something similar before. Which reporters likely would ask. If the answer is yes, there ought to be a very good explanation as to why: such as she didn't realize one must credit one's own work.

jsu

On Sat, Oct 11, 2014 at 7:59 AM, <[REDACTED]> wrote:

So, I held off on reaching out to him. I'm thinking now instead of approaching Jodi/Christine/Julie about a story with the angle of people using social media to attack someone they don't like. Here are my random notes/thoughts of the past few hours. Any wisdom or even questions you could add to the thought process?

THANKS!!!

- Within the past week or so (do we know the exact date it was discovered?), someone noticed a 2006 article by Phyllis used four charts from a 2001 article of hers, but did not cite the previous article. This was brought to her attention (by whom? [REDACTED]?), and she immediately corrected it.
- Phyllis alerted (whom?) to correct the omission.
- the editor of the journal Neuroscience, which had published the article of the correction. (Did you alert [REDACTED] BEFORE the Retraction Watch query?) • [REDACTED] reassured her that such omissions are common and that she has "lots of company." He also offered the following advice: I would probably be inclined not to respond at all. I suspect they will go away without further harassment. The alternative is to simply respond that you agree with the correction and there are no plans to correct other papers."
- An allegation was made by Adam Marcus of "Retraction Watch." Phyllis responded as follows: Dear Mr. Marcus, I agree with the correction. There are no plans to correct any other papers. Sincerely, Phyllis Wise • Aaron Barlow of Academe Blog posted a link to the RW story describing the issue as a "mega-correction." Barlow did not reach out to Phyllis for comment.
- Comments following the article on social media about that blog is mostly negative, with most posts linking to the Retraction Watch story and offering a bit of sarcastic commentary.
- Negative conversation on Twitter is being led by David Correia and Ali Abunimah, who claimed Wise has previously engaged in academic misconduct. Others Salaita supporters made jokes about Wise's misstep that alluded to the Salaita controversy.
- Chronicle Blogs' Andy Thomason picked up the story, but did not reach out to Phyllis for comment.

• University policy calls for: 6. Complaints involving University or Campus Administration. Complaints concerning an employee of University Administration should be communicated to the Vice-President for Academic Affairs. The Vice-President will assign responsibility for handling the Complaint under this Policy to an appropriate and impartial administrator. An RIO may be assigned to assist. All other procedures shall follow this Policy.

1. Do we use anything from [REDACTED]? If not, are there other "experts" who can support our claim that this isn't a major infraction?
2. Can we get any of her co-authors to issue supportive statements?
3. Does she have any past colleagues who might be inclined to use this opportunity to make additional accusations?
4. What about the claim by Correia and Abunimah that Phyllis has previously engaged in academic misconduct?
5. Who is Aaron Barlow?
6. Phyllis was not given the chance to comment in either the Academe or Chronicle blog stories.
7. If a dean were in this situation, what would we do? We should support that approach in this case.
8. Are there any of Phyllis' peers in her field who we could reach out to, so they would speak in her defense?

Points

- I made a mistake. (Why? Try to remember how this happened? Had you written such papers before and remembered to cite yourself?) • When it was brought to my attention, I immediately corrected it.
- Academic chops: NIH funded for many years, etc.
- (My colleagues and peers defend my body of work and my integrity.) • (The timing of this accusation, the people driving the social media conversation and the comments being made all seem to indicate a smear campaign.) • In this brave new world, not only are people being held accountable for comments they make on social media, but people also can use social media to attack others without cause.

----- Original Message -----

From: "Jeff Unger" [REDACTED]

To: "Robin Kaler" <[REDACTED]>

Sent: Friday, October 10, 2014 9:14:25 PM GMT -06:00 US/Canada Central

Subject: Re: help

As for the other part of your question, what to say to Thomason, I think it's that while it is a relatively common error (for researchers to fail to cite their own work), it was a mistake and one that she corrected as soon as it was pointed out to her. Beyond that, I think this is not worth elaborating on.

On Fri, Oct 10, 2014 at 9:01 PM, [REDACTED] wrote:

Agreed. If it has legs, it should be a story about people throwing rocks at her because they are mad about Salaita.

----- Original Message -----

From: "Jeff Unger" <[REDACTED]>

To: "Robin Kaler" <[REDACTED]>

Sent: Friday, October 10, 2014 8:52:47 PM GMT -06:00 US/Canada Central

Subject: Re: help

Andy.Thomason@chronicle.com

The "electronic intifida" certainly isn't worth responding to. The Chronicle, yes, I suppose.

This does, as everyone has said, seem like a tempest in a teapot, but one that likely needs a response. I don't think this has legs.

On Fri, Oct 10, 2014 at 8:39 PM, [REDACTED] wrote:

So, this story broke today.

<http://retractionwatch.com/2014/10/09/u-illinois-chancellor-earns-mega-correction-for-duplicate-publication/>

Here's the memo I sent to Susan Kies for the BoT.

TO: Susan Kies, Tom Hardy

FROM: Robin Kaler

DATE: Oct 10, 2014

RE: Retraction Watch

A minor blog called "Retraction Watch" published the following story earlier this week.

<http://retractionwatch.com/2014/10/09/u-illinois-chancellor-earns-mega-correction-for-duplicate-publication/>

It accuses the chancellor of something it calls "self-plagiarism" saying that she "appears to have tried to pass off as having been previously unpublished — but which wasn't" some of her own work. In reality, the chancellor was asked by the editor of Neuroscience to write a review of a presentation she had made on a paper she had published several years earlier. In such reviews, it is accepted practice to refer to one's own work. Chancellor Wise referred to four figures from the earlier paper, but she forgot to include a citation to herself. This is a common omission, and when it was pointed out to her, she immediately agreed to a correction.

The following is the chancellor's statement on the issue.

"I was asked to write a review in Neuroscience on a paper I had published in that journal earlier. In that review I included some of the data from my original article, but I forgot to include a citation to myself — which I am told is a common omission. Someone pointed it out to me, and I was happy to correct it."

Tom Hardy has received the following query from Ali Abunimah of The Electronic Intifada. He's the reporter who attempted to ambush the Board chair, as well the president after the September meeting.

Have you engaged in serial duplicate publication, as alleged in the items listed above?
Have you passed off papers in which you were not the lead author as ones in which you are?
Will searches of your academic record produce further instances of such apparent misconduct?

To be clear, the answer to all of his questions is no. 1) Chancellor Wise was writing a review of her own work, not somehow publishing old work and pretending it was new. The review was written five years after the first paper, so it would be silly to think anyone would even attempt to do that. 2) Chancellor Wise led the lab from which the earlier paper was produced. The accepted and normal practice of publications is to list as first author, the people who worked on that particular project and to list the head of the lab as the final author. When a review of the lab's work is written, however, the normal practice is to list the head of the lab as the first author, as the head is synthesizing the work done by all teams in the lab. 3) There was no instance of misconduct, nor would there be any at all in a further search of the chancellor's academic record.

c: Scott Rice

Here's a story that popped up on the Chronicle blog by Andy Thomason this afternoon. They never called and asked for a comment from Phyllis...

http://chronicle.com/blogs/ticker/u-of-illinois-chancellor-corrects-serious-errors-in-2006-paper/87757?cid=pm&utm_source=pm&utm_medium=en U. of Illinois Chancellor Corrects 'Serious Errors' in 2006 Paper Phyllis M. Wise, chancellor of the University of Illinois at Urbana-Champaign, has made a significant correction to a paper, published in 2006, that presents non-original work as original, the blog Retraction Watch reports.

According to a correction in the journal Neuroscience, Ms. Wise's paper contained "a number of serious errors" and was "written in a way that misleads the readers to think that it is an original article." The article, "Estrogen Therapy: Does It Help or Hurt the Adult and Aging Brain? Insights Derived From Animal Models," is a review of a 2001 article co-written by Ms. Wise. But the previous article receives no attribution.

Ms. Wise, who researches women's health, has attracted critics in recent months for her decision to revoke a professorship offered to Steven G. Salaita after he wrote a series of tweets critical of Israel. The university's Board of Trustees has backed her decision.

Ms. Wise told Retraction Watch that she had no plans to correct any other papers.

I've talked to Peter Schiffer, who says it's "beyond stupid" that someone would make a big deal out of this, and here's what [REDACTED] says about it....

One would have to understand the standards of what the editors considered a review and maybe have them respond. As some comments state, there is a strong incentive for gaining citations that drives multiple publications of the same

work. Many editors report seeing the same paper submitted and published in multiple places. This probably enables activities like this - those who probe, mindlessly, for conspiracies.

It doesn't matter what peers think. It depends on the blogosphere. This is what I see at UB as sliming. The question posed is similar to "when did you stop beating your child?". Strategies for responding are difficult to develop. I tend to think of really getting advice from trial lawyers who use similar tactics (or must combat such tactics) in the court room. However, I have not yet found the fail safe method of taking on sliming campaigns.

The technique which I try and am not successful is to have colleagues of the slimers rise up in disgust and point out the invidious nature of the campaign. I have not yet been overly successful.

There are nihilists in our midst. The expectations of this group are solely destruction- not the advancement of science, understanding or truth. They are effective if successful in gaining a foothold with the weakly informed, the rabid and those who thrive on conspiracy theories.

Do great things.



I've instructed Phyllis to alert her co-authors, so they aren't surprised if someone calls them. My question is, what do I say to the Chronicle? She's willing to talk to them, but I'm not sure how to reach them, since this guy (Andy Thomason) has a Twitter account, but no email link. Any suggestions?

Thanks so much. I'm happy to talk, if that's useful at all.

I really miss you. Especially your noggin. If you'd like to rent it to us, we'd be happy to pay.
r

From: Ilesanmi Adesida [REDACTED]
Sent: Sunday, October 19, 2014 7:52 PM
To: Phyllis Wise
Subject: Fwd: FW: panel at MESA on Salaita case

FYI.

----- Forwarded message -----

From: Ahmad, Irfan S <isahmad@illinois.edu>
Date: Sun, Oct 19, 2014 at 6:15 PM
Subject: FW: panel at MESA on Salaita case
To: Ilesanmi Adesida [REDACTED] <[REDACTED]@illinois.edu>

From: Hoffman, Valerie J
Sent: Sunday, October 19, 2014 5:49 PM
Subject: panel at MESA on Salaita case

Dear colleagues,

I just noticed that there will be a special pre-program session at this year's MESA meeting on "The Salaita Case and Assaults on Academic Freedom,"
https://mymesa.arizona.edu/meeting_program_session.php?sid=a1987098e4a8cd8783122504dc54ae29/.

All the best,

Valerie

Valerie J. Hoffman

Director, Center for South Asian and Middle Eastern Studies

Professor of Islamic Studies, Department of Religion

University of Illinois at Urbana-Champaign

221 International Studies Building, MC-489

910 S. Fifth Street

Champaign, IL 61820

Telephone: 217-333-0953

www.csames.illinois.edu

From: Ilesanmi Adesida [REDACTED]
Sent: Sunday, October 19, 2014 7:58 PM
To: Phyllis Wise
Subject: MESA

This is the correct link:

https://mymesa.arizona.edu/meeting_program_session.php?sid=a1987098e4a8cd8783122504dc54ae29

From: Phyllis Wise [REDACTED]
Sent: Monday, October 20, 2014 6:38 AM
To: Ilesanmi Adesida
Subject: Re: MESA

Ade,

I wish more people felt that way. We really do need to move forward.

Phyllis

On Monday, October 20, 2014 1:19 AM, Ilesanmi Adesida <[REDACTED]> wrote:

Phyllis,

Irfan is not a tenure track faculty. He is a research faculty but mainly an AP.

On Salaita, he was not in support of the decision but has decided that the campus should move forward. I spoke with him on Friday.

Ade

On Sun, Oct 19, 2014 at 8:54 PM, Phyllis Wise <[REDACTED]> wrote:
Ade,

Do you know how Irfan feels about this? Saleita will be one of the speakers. Do you know where this will be held?

Phyllis

On Sunday, October 19, 2014 7:58 PM, Ilesanmi Adesida <[REDACTED]> wrote:

This is the correct link:

https://mymesa.arizona.edu/meeting_program_session.php?sid=a1987098e4a8cd8783122504dc54ae29

Message

From: Ilesanmi Adesida [REDACTED]
Sent: 11/4/2014 7:17:42 PM
To: Phyllis Wise [REDACTED]
Subject: Re: CAFT

Thanks, Phyllis. Sunday would be better for me in terms of meeting with Scott. I get home on Saturday evening. Safe travels.

Ade

On Tue, Nov 4, 2014 at 6:12 PM, Phyllis Wise [REDACTED] wrote:

Ade,

I would [REDACTED]
[REDACTED]

I think you know his personal email address: [REDACTED]

Phyllis

On Tuesday, November 4, 2014 5:50 PM, Ilesanmi Adesida [REDACTED] wrote:

Phyllis,

I had a long discussion with Abbas and Katherine this morning. CAFT has requested the dossiers on Salaita for review as they do their investigation. They want all the letters of recommendation for his promotion! This is not something that has been done before, i.e. releasing these letters even under redaction. I have told them to tell CAFT that I am traveling and would look into their request once I get back. My assumption is that whatever is done, we should expect that it would leak out. I am just wondering how this will play with our requests for letters in the future if they know that other people not strictly in the line of P&T efforts have access to the letters.

Thanks.

Ade

From: Ilesanmi Adesida [REDACTED]
Sent: Sunday, November 16, 2014 8:04 AM
To: Rice Scott; Robin Kaler; Phyllis Wise
Cc: Ilesanmi Adesida
Subject: LAS Letter
Attachments: SCAN0002.PDF

Hi Robin, Scott, Phyllis,

The attached is a letter or note that Barbara Wilson would like to send to the faculty of LAS. She gave this to me on Friday and wanted to seek my opinion on this. I told her that I would vet this with the Chancellor and Robin. I am not really comfortable with this because I don't want college and campus being seen to be played against each other. Moreover, it goes into too much details about the past. I would like a message crafted that makes sure that LAS is committed to shared governance and the campus is committed to it also. A new Provost Communication #27 has been posted. Robin, could you assist in crafting the message. Once crafted, I would send it to Barb and perhaps, you could work with her also.

Ade

From: Robin Kaler [REDACTED]
Sent: Sunday, November 16, 2014 10:01 AM
To: Ilesanmi Adesida
Cc: Rice Scott; Phyllis Wise
Subject: Re: LAS Letter

Of course. Is this evening soon enough?

Sent from my iPhone

> On Nov 16, 2014, at 8:03 AM, Ilesanmi Adesida [REDACTED] wrote:

>

> Hi Robin, Scott, Phyllis,

>

> The attached is a letter or note that Barbara Wilson would like to send to the faculty of LAS. She gave this to me on Friday and wanted to seek my opinion on this. I told her that I would vet this with the Chancellor and Robin. I am not really comfortable with this because I don't want college and campus being seen to be played against each other. Moreover, it goes into too much details about the past. I would like a message crafted that makes sure that LAS is committed to shared governance and the campus is committed to it also. A new Provost Communication #27 has been posted. Robin, could you assist in crafting the message. Once crafted, I would send it to Barb and perhaps, you could work with her also.

>

> Ade

> <SCAN0002.PDF>

From: Ilesanmi Adesida [REDACTED]
Sent: Monday, November 17, 2014 8:41 AM
To: Robin Kaler
Cc: Rice Scott; Phyllis Wise
Subject: Re: LAS Letter

It looks fine but I don't know whether we should mention the Kilgore decision. What do you all think?
Ade

On Sun, Nov 16, 2014 at 2:09 PM [REDACTED] wrote:
how about this?

----- Original Message -----

From: "Ilesanmi Adesida" [REDACTED]
To: "Rice Scott" <[REDACTED]>, "Robin Kaler" [REDACTED], "Phyllis Wise"
[REDACTED]
Cc: "Ilesanmi Adesida" [REDACTED]
Sent: Sunday, November 16, 2014 8:03:35 AM GMT -06:00 US/Canada Central
Subject: LAS Letter

Hi Robin, Scott, Phyllis,

The attached is a letter or note that Barbara Wilson would like to send to the faculty of LAS. She gave this to me on Friday and wanted to seek my opinion on this. I told her that I would vet this with the Chancellor and Robin. I am not really comfortable with this because I don't want college and campus being seen to be played against each other. Moreover, it goes into too much details about the past. I would like a message crafted that makes sure that LAS is committed to shared governance and the campus is committed to it also. A new Provost Communication #27 has been posted. Robin, could you assist in crafting the message. Once crafted, I would send it to Barb and perhaps, you could work with her also.

Ade

From: Robin Kaler [REDACTED]
Sent: Monday, November 17, 2014 11:45 AM
To: Phyllis Wise
Cc: Ilesanmi Adesida; Rice Scott
Subject: Re: LAS Letter

Just making sure you receive the draft I sent yesterday?

Sent from my iPhone

> On Nov 16, 2014, at 8:34 AM, Phyllis Wise [REDACTED] wrote:

>

> Ade,

>

> I agree with you. I think a simple first statement that I (Barb) and the provost and chancellor realize that the Saleita decision has had greater impact on some departments/programs than others. She does not need to/should not go into the detailed list of repercussions that she did. We are all committed to shared governance (provost communication #27). We are glad that there is a robust discussion around freedom of speech and academic freedom, particularly when it brings in experts in this area to campus. In the end, if we have the common goal of making the college and campus, we must use this as a learning moment and work together to make us a Bette place for the future.

>

> Phyllis

>

> Sent from my iPad

>

>> On Nov 16, 2014, at 8:03 AM, Ilesanmi Adesida [REDACTED] wrote:

>>

>> Hi Robin, Scott, Phyllis,

>>

>> The attached is a letter or note that Barbara Wilson would like to send to the faculty of LAS. She gave this to me on Friday and wanted to seek my opinion on this. I told her that I would vet this with the Chancellor and Robin. I am not really comfortable with this because I don't want college and campus being seen to be played against each other. Moreover, it goes into too much details about the past. I would like a message crafted that makes sure that LAS is committed to shared governance and the campus is committed to it also. A new Provost Communication #27 has been posted. Robin, could you assist in crafting the message. Once crafted, I would send it to Barb and perhaps, you could work with her also.

>>

>> Ade

>> <SCAN0002.PDF>

From: [REDACTED]
Sent: Monday, November 17, 2014 1:19 PM
To: Ilesanmi Adesida
Cc: Rice Scott; Phyllis Wise
Subject: Re: LAS Letter

I defer to you, but I think it shows a commitment to shared governance.

Just want to make sure people know that you two are listening and moving forward to work with Barb and her team.

----- Original Message -----

From: [REDACTED]
To: "Ilesanmi Adesida" [REDACTED]
Cc: "Rice Scott" <[REDACTED]> "Phyllis Wise" [REDACTED]
Sent: Sunday, November 16, 2014 2:09:54 PM GMT -06:00 US/Canada Central
Subject: Re: LAS Letter

how about this?

----- Original Message -----

From: "Ilesanmi Adesida" [REDACTED]
To: "Rice Scott" [REDACTED], "Robin Kaler" [REDACTED] "Phyllis Wise"
[REDACTED]
Cc: "Ilesanmi Adesida" [REDACTED]
Sent: Sunday, November 16, 2014 8:03:35 AM GMT -06:00 US/Canada Central
Subject: LAS Letter

Hi Robin, Scott, Phyllis,

The attached is a letter or note that Barbara Wilson would like to send to the faculty of LAS. She gave this to me on Friday and wanted to seek my opinion on this. I told her that I would vet this with the Chancellor and Robin. I am not really comfortable with this because I don't want college and campus being seen to be played against each other. Moreover, it goes into too much details about the past. I would like a message crafted that makes sure that LAS is committed to shared governance and the campus is committed to it also. A new Provost Communication #27 has been posted. Robin, could you assist in crafting the message. Once crafted, I would send it to Barb and perhaps, you could work with her also.

From: Ilesanmi Adesida [REDACTED]
Sent: Thursday, November 27, 2014 11:22 AM
To: Phyllis Wise
Subject: Senate Resolution
Attachments: Scanned from a Xerox Multifunction Device.pdf

Phyllis,

This is the Senate Resolution that Kirk Sanders gave me that they will present to SEC on Monday. He crafted it with Ben McCall of Chemistry. They on opposite sides with respect to the Salaita case but he said that they agreed on the academic freedom issue! I don't really know Ben.

Ade

UNIVERSITY OF ILLINOIS
URBANA-CHAMPAIGN SENATE
Prefiled Resolution

RS.15.04 Resolution on Shared Governance and Academic Freedom

BACKGROUND

This summer, senior administrators decided to recommend that the Board of Trustees not approve the appointment of Dr. Steven Salaita to a tenured position in American Indian Studies on our campus, after such an appointment had been recommended through a thorough and appropriate academic review of Dr. Salaita's credentials by that unit, by the college level promotion and tenure committee, and by the campus promotion and tenure committee. This decision, together with the public statements from the administration in the wake of this decision, has led to an unfortunate division on our campus.

Some faculty and students have made impassioned arguments that this decision represents a direct affront to both academic freedom and shared governance, and the faculties of more than a dozen units reacted by passing no-confidence motions. Other faculty and students have made public statements in support of the Chancellor, and some departments have voted on formal statements expressing support, or even unequivocal support, for the Chancellor.

Despite differences in opinion about the decision, there is no question that the decision has had adverse impacts on many departments and has the potential to have adverse impacts on the campus as a whole. Scholarly associations in many disciplines have issued statements critical of the university, and over 5000 academics outside of our campus have expressed their disapproval by boycotting our campus. Many talks and conferences, including the entire year's colloquium series in Philosophy, have been canceled as outside speakers have withdrawn. Some departmental program reviews and senior faculty searches have had to be postponed. Scholars across campus are concerned that the American Association of University Professors (AAUP) may censure the university, which would have impacts across campus.

Broadly speaking, the concerns about the handling of the Salaita case fall into two categories. The first involves procedural concerns surrounding the fact that Salaita's proposed appointment, which had been vetted at all appropriate levels, was summarily "aborted" without consultation of either the college-level administration or members of the relevant home unit. These concerns appear to be broadly shared across campus, and an *ad hoc* task force has been constituted by the Senate Executive Committee to recommend procedural changes. The second category involves concerns about the precedent of the Salaita decision, and the subsequent massmails sent by the administration, in the context of academic freedom. There is a wider range of concerns in this category among scholars on our campus, and these issues are currently being explored by the Committee on Academic Freedom and Tenure.

We may respectfully disagree with one another about whether the non-appointment of Dr. Salaita was justifiable or a grave injustice, and whether the Chancellor's actions represent an unfortunate blemish on an otherwise outstanding record or clear evidence that she is unfit to lead an institution of higher learning. These disagreements, which have been heated in recent months, can obscure the fact that there is a great deal of common ground shared by students, academic professionals, and faculty across our campus. This resolution is intended to express our united voice in honoring the bedrock principles of shared governance and academic freedom that we all cherish.

RESOLUTION

WHEREAS Dr. Steven Salaita was recommended for a tenured faculty position on our campus following a thorough and appropriate review of his case by disciplinary experts at the unit level, by a college promotion and tenure committee, and by the campus promotion and tenure committee, and

WHEREAS the Chancellor initially declined to forward this recommendation to the Board of Trustees and subsequently recommended that the Board of Trustees not approve it, following a series of Twitter messages from Dr. Salaita on a topic related to the subject of his scholarly work that many observers considered to lack appropriate civility, and

WHEREAS the Chancellor has acknowledged that these decisions were made without consulting either college-level administrators or members of the relevant home unit, and

WHEREAS the Chancellor justified her decision in a massmail to campus that stated in part "What we cannot and will not tolerate at the University of Illinois are personal and disrespectful words or actions that demean and abuse either viewpoints themselves or those who express them," and

WHEREAS the Board of Trustees and President Easter followed this with a massmail that included the phrase "we must constantly reinforce our expectation of a university community that values civility as much as scholarship,"

THEREFORE BE IT RESOLVED THAT the process by which the decisions were made first not to forward the recommended appointment of Dr. Salaita to the Board of Trustees and then to recommend against it was inconsistent with the principles of shared governance and academic decision-making that are cherished by our campus and enshrined in our *Statutes*, and

BE IT FURTHER RESOLVED THAT the Senate expects senior administration officials to respect the academic processes by which recommendations for hiring, promotion, and tenure are made, and

BE IT FURTHER RESOLVED THAT decisions by senior administrators to act in opposition to recommendations for hiring, promotion, and tenure that arise through appropriate academic processes should occur only, if ever, following extensive consultation with all academic units that would be impacted by such decisions, and

BE IT FURTHER RESOLVED THAT the Senate affirms its commitment to the policy statements on academic freedom and shared governance made by the American Association of University Professors, and

BE IT FURTHER RESOLVED THAT the Senate, while embracing the AAUP's admonition that university teachers have a special obligation to be accurate at all times, to exercise appropriate restraint, and to show respect for the opinions of others, rejects as unacceptably broad the claim that the University of Illinois "cannot and will not tolerate...disrespectful words or actions that demean or abuse either viewpoints themselves or those who express them," and

BE IT FINALLY RESOLVED THAT the Senate, while recognizing civility as a laudable norm for public discourse, rejects the notion that a university should value "civility as much as scholarship," since the free expression of scholarly opinions is the essence of academic freedom, even in cases where such expression might be viewed by some as lacking civility.

Respectfully submitted and co-sponsored by:

Ben McCall, Chemistry

Kirk Sanders, Classics

Vidar Lerum, Architecture

Randy McCarthy, Mathematics

Dana Rabin, History

D. Fairchild Ruggles, Landscape Architecture

Gabriel Solis, Music

Anna Stenport, Germanic Languages & Literature

Jon Thaler, Physics

Tony Wong, Astronomy

From: Ilesanmi Adesida [REDACTED]
Sent: Sunday, November 30, 2014 4:13 PM
To: Nick Burbules
Cc: Joyce Tolliver; Phyllis Wise; Robin Kaler
Subject: Re: resolution on academic freedom

Just catching up on all the thread. Thanks, Nick and Joyce.
Ade

On Sat, Nov 29, 2014 at 7:39 PM, Nick Burbules [REDACTED] wrote:
Yes: key word - DRAFT.

On Sat, Nov 29, 2014 at 5:18 PM, Joyce Tolliver [REDACTED] wrote:
Even after a long week of work and a very long journey, Nick is quicker and more eloquent than I am.

One more point: I believe that draft resolutions are not distributed to the press in advance of the meetings (at least not by the Senate office).

If this one is not put on the December Senate agenda, it remains a draft.

best
Joyce

On Sat, Nov 29, 2014 at 5:03 PM, Nick Burbules [REDACTED] wrote:
Hi Phyllis

My view is that all this item is right now is a statement from ten or so people, expressing their views - and rehashing old criticisms. It doesn't need a response or comment.

If the senate postpones it, there is no reason to talk about it -- if it ever does come before the senate it might be amended, so we don't even know for sure what a final resolution might say. I think it WON'T be this one.

As Joyce likes to say, process is our friend. There are two committees hard at work to produce reviews of what happened and reports on what to do about it. I hope that when they come out, you will be able to accept the analyses of what went wrong, and the recommendations on how to move forward. An outcome where you and the senate want the same things (as I think we do) is the best for everyone.

My hope is that a senate resolution in Feb can endorse the reports and their recommendations. Then documents like this will be irrelevant.

Emphasizing disagreements with a statement that ISN'T a senate statement just gives the critics more ammunition, or it makes it look like the senate is putting it off because you don't like it.

Authorizing the senate process and awaiting its (soon to be released) reports, coming from people mostly with no axe to grind, puts us all on the same page. If the critics want to complain about THAT, it puts them on weaker ground.

Nick

On Sat, Nov 29, 2014 at 4:50 PM, Phyllis Wise <[REDACTED]> wrote:

Thanks so much, Joyce and Nick and all, for your continuing support. I wonder whether I am going to be asked to comment and I want to think about what I would say either in the meeting or to the press after the meeting.

Phyllis

From: Joyce Tolliver <[REDACTED]>

To: Nick Burbules <[REDACTED]>

Cc: Phyllis Wise <[REDACTED]>; Robin Kaler <[REDACTED]>; Ilesanmi Adesida <[REDACTED]>

Sent: Saturday, November 29, 2014 3:52 PM

Subject: Re: resolution on academic freedom

Phyllis, please don't apologize for staying in touch--I appreciate your reaching out.

I think probably there is no need to say much about the proposed resolution. If Nick were not available to make the motion for postponement, I would do so myself.

cheers

Joyce

On Sat, Nov 29, 2014 at 9:42 AM, Nick Burbules <[REDACTED]> wrote:

Hi Phyllis

Just landed at O'Hare, returning from [REDACTED] Happy to talk.

I am going to move that we postpone any consideration of this resolution until after the two senate committees have reported out

By the time they have, this item could be moot.

Nick

On Saturday, November 29, 2014, Phyllis Wise <[REDACTED]> wrote:

Dear Nick and Joyce,

I hate to disturb your Thanksgiving weekend but I want to make sure that you have read the resolution on academic freedom that will be presented at the SEC meeting on Monday. I am not sure I should or need to comment on it during the meeting, and would welcome your advice.

Phyllis

--

Joyce Tolliver

--

Joyce Tolliver

From: Phyllis Wise [REDACTED]
Sent: Monday, December 01, 2014 6:24 AM
To: Ilesanmi Adesida
Subject: Re: Letters!

Dear Ade,

The more I read our letter the less I like the idea of sending out a mass mail at this time. I am not pleased with the tone of Barb's letter, but we have no control over that. I will urge her to change it to focus on the future. In terms of ours, I think it is a bad idea to send anything right now. The CAFT report is due by Thanksgiving (past due) and the report from your committee is due any day now. If we send out anything right now it looks like a "me too" to Barb's and looks like we are defensive. And it does not even wait until the report that you commissioned and the report that the Academic Senate commissioned comes out. My hope is that we will be able to embrace the results of both those reports. That would be worth sending out an email about.

I think a better alternative is let Barb send out a letter if she insists. We wait for the reports to come out and respond to them, hopefully embracing them and listing what we are doing in light of the situation. In addition to what you list, I have decided to have 1 or 2 Chancellor's Fellow (25%) from the humanities or Arts to help me to continue to learn. We should list that as one of the things we will do. If you insist on sending out an email, I would change the second and third paragraphs to:

[REDACTED]

But I really don't think it is a good idea for us to send out anything. It looks defensive to Barb's letter and does not respect the process that you and the Academic Senate has put in place.

Phyllis

From: Ilesanmi Adesida [REDACTED]
To: Phyllis Wise [REDACTED]
Cc: Ilesanmi Adesida [REDACTED]
Sent: Sunday, November 30, 2014 5:13 PM
Subject: Letters!

Phyllis,

I have been bellyaching about the letter that Barb Wilson wants to send to the LAS faculty. I am attaching it here. She feels compelled that she needs to get something out because she may become ineffective in the college! We have talked and we will be talking again tomorrow. I consulted with Abbas and Katherine. No agreement has been reached. However, Katherine suggested that if Barb must send out a letter then we have to follow it up with a letter of our own and drafted something that Robin and Chris have also gone through. All these are drafts! I have not agreed to anything! I am reading and reading these letters over and over. I am trying to put this Salaita story behind us but it keeps rearing its head. I have seen the Senate Resolution being prepared for SEC and saw the responses of Nick and Joyce. There are two committees working on the case and it would be better to come out with a letter after those reports are submitted in my view. However, I am not sure that Barb will be able to stay action until then. She is really conflicted!

We should talk about this.

Ade

PS: I am in the office and will be leaving for home shortly. Please call me when you return.

To: Montrul, Silvina Andrea
From: Joyce Tolliver
Subject: Re: letter
Sent: Wed Dec 03 09:18:02 2014
Importance: Normal

Thank you, Silvina. That took courage.

Sent from my iPhone

> On Dec 3, 2014, at 08:29, Montrul, Silvina Andrea <montrul@illinois.edu> wrote:

>

> Marcus asked me to sign it and I refused to participate in this.

>

> -----Original Message-----

> From: Jtolliver [REDACTED]

> Sent: Wednesday, December 03, 2014 8:08 AM

> To: Montrul, Silvina Andrea

> Subject: letter

>

> Silvina, do you know if Jean-Philippe consulted with the School Executive Committee before signing this letter?

>

> <http://www.news-gazette.com/news/local/2014-12-02/ui-academic-officers-ask-killeen-address-salaita-issue.html>

>

> best

> Joyce

>

> Joyce Tolliver

To: Villegas, Jorge
From: Joyce Tolliver
Subject: Re: the transition team
Sent: Wed Dec 03 09:46:25 2014
Importance: Normal

Jorge, I was very surprised to see Matt's name there.

I think these colleagues want to keep the case burning. They may feel it benefits them to do so.

On Wed, Dec 3, 2014 at 8:52 AM, Villegas, Jorge <jvill2@uis.edu<mailto:jvill2@uis.edu>> wrote:
Thanks Joyce.

Matt Ando signed this?! I am working with him in the UA Budget Committee. He is a very smart guy.

I like Don's adage that the only fights that are worth fighting are the ones that you know you are going to win. What is the end game of this letter?

Oh well... Welcome to Illinois!

Jorge

Jorge Villegas, Ph.D.
Associate Professor and Chair of Business Administration
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Springfield, Illinois 62703-5407
(217) 206-7927<tel:%28217%29%20206-7927> • Fax (217) 206-7543<tel:%28217%29%20206-7543>

From: Jtolliver [mailto: [REDACTED]mailto: [REDACTED]]
Sent: Wednesday, December 03, 2014 8:02 AM

To: Villegas, Jorge
Subject: Re: the transition team

Jorge, this morning's NG has an article about how some of my colleagues are welcoming our new president:

<http://www.news-gazette.com/news/local/2014-12-02/ui-academic-officers-ask-killeen-address-salaita-issue.html>

May be relevant this morning.

See you soon.
J

Joyce Tolliver

On Dec 2, 2014, at 22:42, Villegas, Jorge <jvill2@uis.edu<mailto:jvill2@uis.edu>> wrote:
Will do!

See you tomorrow.

Jorge

Jorge Villegas, Ph.D.
Associate Professor and Chair of Business Administration
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From: Joyce Tolliver [mailto: [REDACTED]]
Sent: Tuesday, December 02, 2014 10:40 PM
To: Villegas, Jorge
Subject: Re: the transition team

Jorge, my condolences for the deeply offensive snubbing by our union organizer friends. If you really want them to come, stop doing suspicious things like talking to administrators and do a little more public complaining!

Seriously, I appreciate the update. Apparently they are back on the organizing path here too, but I have not seen them in my department.

I think your plan to give Don a call tomorrow morning is a good one, and I appreciate your soothing words. I think I will try to get ahold of him too, just in case.

See you on camera tomorrow!

J.

On Tue, Dec 2, 2014 at 10:28 PM, Villegas, Jorge <jvill2@uis.edu<mailto:jvill2@uis.edu>> wrote:
Hi Joyce,

I promise that I am not stalking you in all the committees that we serve on!

I sent in an email to Don and Connie that I might arrive late to the SEC meeting since I had a meeting with Dr. Killeen (I didn't elaborate). I think Don is ok since he received a phone call from our next President so I don't think he feels left out...I hope...I will call him early tomorrow if possible to make sure that he is ok. I will not mention the names of other members of this group.

I think Don is aware that members of UIC will not invite him (or accept his nomination) to this type of committees since some UIC members have communicated that they are uncomfortable having him as a member of different groups now that he is retired. Also, his views on unionization have made him a persona non-grata in certain circles.

In other news, here the union people are collecting signatures and no one has come to my office to talk with me about the virtues of unionization. I feel kind of offended that they think that it'd be a waste of time talking to me. Do I really look as such an irrational person?

See you tomorrow

Jorge

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Associate Professor and Chair of Business Administration
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University of Illinois at Springfield
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From: Joyce Tolliver [mailto: [REDACTED] <mailto: [REDACTED]>]

Sent: Tuesday, December 02, 2014 8:42 PM

To: Villegas, Jorge

Subject: the transition team

Jorge, I have not yet mentioned to Don that I am on the incoming president's transition team. I just saw the distribution list yesterday that was on the email with our homework assignment and I realized that you and I are the only USC members on it.

Do you think this will be a delicate matter? Since the presidential transition is on the agenda for the ExComm meeting tomorrow, I am wondering whether we should let Don know in advance that we are serving on this group.

To tell you the truth, I am a little nervous that his feelings will be hurt.

--

Joyce Tolliver

--

Joyce Tolliver

--

Joyce Tolliver

From: Phyllis Wise [REDACTED]
Sent: Sunday, December 14, 2014 10:05 PM
To: Ilesanmi Adesida
Subject: reports

Ade,

I read the report on hiring and I think it is reasonable. In fact, I think it is more reasonable than the statement of the Ex Committee of the COE - which still rankles me.

I will give you a copy of the draft from CAFT. What angers me about this report is that they believe that I made the decision and that the BOT followed my recommendation. That is just plain not true. I have been carrying the water since Edelman said that we have to stay as one voice. I don't think I can do that any longer. I am going to talk with Scott about setting the record straight.

I have just about lost my patience with all of this.

Phyllis

To: Nick Burbules
From: Jtolliver
Subject: Re: moral philosophy in the NYT
Sent: Tue Dec 16 08:24:37 2014
Importance: Normal

All good. I hope we will be in a position to cite the process report, or at worst supplement it, rather than contesting it.

I would like to hear more about number 4 at some point.

Joyce Tolliver

On Dec 16, 2014, at 06:47, Nick Burbules [REDACTED] >> wrote:

Mental outline of senate statement

Factual background

1. Inconsistency of documents and procedures: Recommendation
2. The locus of decision making - is the Chancellor in the loop: Recommendation
3. If the Chancellor overturns a recommendation in light of new information, what should the process be: Recommendation
4. The Chancellor's shifting rationales: Recommendation
5. Hiring vs tenure and promotion - what you can consider: Recommendation
6. The right of appeal: Recommendation
7. The role of the Board: Recommendation

On Mon, Dec 15, 2014 at 10:30 PM, Joyce Tolliver [REDACTED] >> wrote:
Well said.

I do find it interesting that he chose to meditate on this particular tweet, which in some ways is the worst of all, for the reason you and others have pointed out.

On Mon, Dec 15, 2014 at 9:06 PM, Nick Burbules [REDACTED] >> wrote:
Another shameful piece of tripe from a philosopher who should know better.

As if this one tweet were the only problem.

And ignoring the fact that PW's criticism of THIS tweet was not civility, but the hostile and disrespectful message it sends to students.

On Mon, Dec 15, 2014 at 8:29 AM, Jtolliver [REDACTED] >> wrote:
<http://opinionator.blogs.nytimes.com/2014/12/14/did-salaita-cross-the-line-of-civility/?hp&action=click&pgtype=Homepage&module=c-column-top-span-region®ion=c-column-top-span-region&WT.nav=c-column-top-span-region>

Joyce Tolliver

--
Joyce Tolliver

From: Phyllis Wise [REDACTED]
Sent: Tuesday, December 16, 2014 9:57 AM
To: Rice Scott
Subject: Fw: talking points

Scott,

Here are Andy's talking points after our phone conversation.

Phyllis

----- Forwarded Message -----

From: "Wise, Andrew" <awise@milchev.com>
To: Phyllis Wise <[REDACTED]>
Sent: Sunday, December 14, 2014 2:48 PM
Subject: talking points

Here are the issues and I see them:

- A report is about to issue that will inaccurately suggest that you alone decided not to submit Salaita's potential hire to the Board.
- In fact, you did not submit Salaita's potential hire to the Board because during executive session, there was a general consensus between you and the Board that Salaita's tweets and behavior made him someone who did not belong on the tenured faculty at UIUC.
- During that meeting, Chris Kennedy was clear that he did not support Salaita's hire, and others concurred that they would not approve his hire.
- Given the Board's clear position, there was no reason for you to submit a potential hire to the Board that you did not support in the first instance. Accordingly, as you've indicated before, you told Salaita that you were unable to recommend his hire to the Board.
- The report's inaccurate conclusion that this decision was yours alone will be based largely on two things.
 - o First, when you were interviewed, you did not indicate that the Board had made clear it would not approve Salaita's hire because of the past strategy (pushed by Kennedy) of maintaining a united front. Of course, the election means that Kennedy and possibly two others will no longer be on the board.
 - o Second, while Kennedy was not interviewed, the report writers are relying on a prior untrue Kennedy's statement to a newspaper report that the Board was simply following your lead on Salaita.
- The report is due to issue on Thursday and a draft was provided to you, ostensibly to confirm your input to the report writers and to provide comment if appropriate.
- While you have no intention of diminishing your role in the decision, allowing Kennedy's inaccurate narrative to continue is harmful to you individually and to the university.
 - o It is harmful to you because it will lead to further criticism that you ignored proper process and acted unilaterally in this instance.
 - o It is harmful to the university because it will call into question its present Chancellor and only serve to protect someone (Kennedy) who is no longer even part of the Board.
- You should submit a correction to the report writers essentially saying that Kennedy's quote to the newspaper did not accurately reflect the discussions of the Board and in fact, the Board was uniform in its belief that Salaita should not be hired.

- Obviously, such a statement will lead to a request for the minutes/transcript of the Board meeting. Consideration should be given to whether those materials should be provided in order to make sure the inaccuracy of Kennedy's newspaper quotes is not repeated or adopted as part of the accepted narrative.

Andrew T. Wise
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Suite 900
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(202) 626-5818 - direct
(202) 626-5801 - facsimile

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From: Burbules, Nicholas C [burbules@illinois.edu]
Sent: Monday, December 22, 2014 2:34 PM
To: I Adesida
CC: Burbules, Nicholas C
Subject: FW: LAS Executive Committee Endorsed Memo on Faculty Hiring
Attachments: Endorsed Memo on Hiring.pdf; ATT00001.htm

Hello Ade

This looks to me like a back-door way of forcing a reconsideration of the Salaita decision.

I wonder if Andreas and his Executive Committee realize that their statement is being seized upon as a great victory by the pro-Salaita folks?

<https://www.facebook.com/supportsalaita/posts/280968922027444>

Nick

From: <Tolliver>, Joycet Tolliver <joycet@illinois.edu>
Date: Monday, December 22, 2014 at 1:59 PM
To: Burbules <burbules@illinois.edu>
Subject: Fwd: LAS Executive Committee Endorsed Memo on Faculty Hiring

Fyi

Sent from my iPhone

Begin forwarded message:

From: "Wilson, Barbara Jan" <bjwilson@illinois.edu>
Date: December 22, 2014 at 13:38:18 CST
Subject: LAS Executive Committee Endorsed Memo on Faculty Hiring

Dear LAS Faculty,

The LAS Executive Committee has asked that I share the message below with you.

I wish you all a relaxing holiday break.

Best,
Barbara Wilson
Dean

Begin forwarded message:

From: "Davila, Jerry" <jdavila@illinois.edu>
Date: December 21, 2014 at 2:27:12 PM CST
To: "Wilson, Barbara Jan" <bjwilson@illinois.edu>
Subject: Endorsed Memo on Faculty Hiring

Dear Dean Wilson,

The LAS Executive Committee has voted to endorse the Memo on Faculty Hiring drafted and approved by the Executive Committee of the College of Engineering. We would like to ask if you could circulate it to faculty in the College of Liberal Arts and Sciences.

Thank you,

Jerry Dávila
Vice-Chair of the Executive Committee
College of Liberal Arts and Sciences

Members of the LAS Executive Committee include

- Jerry Davila, History
- Kelly Ritter, English
- Mariselle Melendez, Spanish and Portuguese
- Tracy Sulkin, Political Science
- Cynthia Buckley, Sociology
- Phillip Newmark, Cell and Developmental Biology
- Bruce Rhoads, Geography & Geographic Information Science
- Marius Junge, Mathematics

:

Dec. 9, 2014

Approved College of Engineering Executive Committee Memo on Hiring Policy

The College of Engineering Executive Committee (EC) has carefully and deliberately considered the issues surrounding hiring controversies. While we appreciate many passionate views on the subject, several important issues need to be highlighted that transcend specific cases. Foremost, the EC is concerned about the adverse impact that several units in the University are experiencing or may experience as a result of the national reaction to some recent hiring decisions. The EC believes that the University as a whole suffers when any of its units suffer.

While the Board of Trustees and the Administration work to improve the hiring process, the EC would like to reiterate the principles that we must uphold going forward:

1. We strongly endorse the importance of academic freedom. The University has endorsed the AAUP Policy Statement on Academic Freedom. We believe the University must follow this policy in cases involving academic freedom. An important implication of this policy is laid out in the AAUP's report on Academic Freedom and Electronic Communications. It is important that the policy be uniformly applied to extramural speech in all cases of hiring, tenure and promotion of faculty at the university, following the letter and intent of Article X, Section 2, of the University of Illinois statutes.
2. We strongly support the principle of shared governance. We appreciate the creation of Provost Communication #27, which should be widely disseminated and discussed. "Key Decisions" made by Executive Officers clearly include hiring, and the reiteration of the shared governance principles should provide clear direction going forward.
3. We strongly reiterate the importance of the hiring and advancement of faculty being based solely on scholarly peer evaluation.

This Memo was endorsed by the Executive Committee of the College of Liberal Arts and Sciences on December 19, 2014.

From: Burbules, Nicholas C <burbules@illinois.edu>
Sent: Monday, December 22, 2014 8:28 PM
To: Ilesanmi Adesida
Cc: Burbules, Nicholas C
Subject: Re: LAS Executive Committee Endorsed Memo on Faculty Hiring

Thanks, Ade,

I am sure that is not their intention, but it seems to me that there is a full court press to get people on board with what seem like general "principles," but which I expect to be invoked later to suggest that the entire Salaita matter has to be revisited.

I hope I am wrong!

Let's see what these two reports say.

Nick

From: Ilesanmi Adesida [REDACTED]
Date: Monday, December 22, 2014 at 5:13 PM
To: Burbules <burbules@illinois.edu>
Subject: Re: FW: LAS Executive Committee Endorsed Memo on Faculty Hiring

Nick,

I was alarmed by the document when I first saw it. I mentioned this to Andreas then and I have just talked to him again. He hopes that this would be the end of the story because they are not canvassing for the principal to be brought here and they don't support him. They thought they were reaffirming faculty governance!

Ade

On Mon, Dec 22, 2014 at 2:33 PM, Burbules, Nicholas C <burbules@illinois.edu> wrote:
Hello Ade

This looks to me like a back-door way of forcing a reconsideration of the Salaita decision.

I wonder if Andreas and his Executive Committee realize that their statement is being seized upon as a great victory by the pro-Salaita folks?

<https://www.facebook.com/supportsalaita/posts/280968922027444>

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Dean

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To: "Wilson, Barbara Jan" <bjwilson@illinois.edu>
Subject: Endorsed Memo on Faculty Hiring

Dear Dean Wilson,

The LAS Executive Committee has voted to endorse the Memo on Faculty Hiring drafted and approved by the Executive Committee of the College of Engineering. We would like to ask if you could circulate it to faculty in the College of Liberal Arts and Sciences.

Thank you,

Jerry Dávila

Vice-Chair of the Executive Committee

College of Liberal Arts and Sciences

Members of the LAS Executive Committee include

- Jerry Davila, History
- Kelly Ritter, English
- Mariselle Melendez, Spanish and Portuguese
- Tracy Sulkin, Political Science
- Cynthia Buckley, Sociology
- Phillip Newmark, Cell and Developmental Biology
- Bruce Rhoads, Geography & Geographic Information Science
- Marius Junge, Mathematics

:

From: on behalf of [REDACTED]
Sent: Tuesday, December 23, 2014 12:38 PM
To: Nick Burbules
Subject: Re: Academe

Thanks for sharing.

----- Original Message -----

From: "Nick Burbules" [REDACTED]
To: "Roy Campbell" [REDACTED], "Joyce Tolliver" <[REDACTED]>, "Robin Kaler" [REDACTED]
[REDACTED]m>

Sent: Tuesday, December 23, 2014 11:49:13 AM GMT -06:00 US/Canada Central
Subject: Re: Academe

And: <https://www.facebook.com/supportsalaita/posts/283023668488636>

On Tue, Dec 23, 2014 at 11:48 AM, Nick Burbules <[REDACTED]> wrote:

Also to CFA: <http://cfaillinois.org/2014/12/23/uiuc-report-condemns-dismissal-of-steven-salaita/>

On Tue, Dec 23, 2014 at 11:46 AM, Nick Burbules <[REDACTED]> wrote:

Why was this report leaked to them before it became an official campus document?

<http://academeblog.org/2014/12/23/uiuc-report-condemns-dismissal-of-steven-salaita/>

From: Ilesanmi Adesida [REDACTED]
Sent: Sunday, January 04, 2015 11:56 AM
To: Phyllis Wise
Cc: Rice Scott
Subject: Re: Fw: Draft response to CAFT

Phyllis,

Thanks for sharing the document. I have just had the chance to read the document. It is well written but I would like to talk to you on the phone.

Thanks.

Ade

On Sat, Jan 3, 2015 at 8:33 PM, Phyllis Wise [REDACTED] wrote:
Ade and Scott,

I am sending you a semi-final draft of Nick Burbules' analysis and commentary on the CAFT report. I have spoken with him over the phone about this. I told him that I think it is beautiful - writing is first rate and analysis is spot on. He told me that he would send me the next version in a couple of days, but I thought you should see this now. I had been tempted to tell him to not respond to the report before I saw this. Now that I have seen it, I believe [REDACTED]
[REDACTED]

I urged Nick to send the next version to the president with a cover email explaining what the process should have been.

I would be happy to talk with you about my conversation with him about who the report should have been sent to, possible next steps. Scott, I would be [REDACTED]

Phyllis

----- Forwarded Message -----

From: Nick Burbules <[REDACTED]>
To: Phyllis Wise <[REDACTED]>; Robin Kaler <[REDACTED]>
Sent: Saturday, January 3, 2015 2:38 PM
Subject: Draft response to CAFT

Hello Phyllis,

I am attaching an extensive DRAFT analysis and commentary on the CAFT report. Joyce made a number of useful suggestions, but at this stage responsibility for it is my own and I do not attribute these views to her.

I will be talking with Joyce, Roy, and Kim about how this response, or some version of it, might help to move the campus discussion forward.

It is just a draft and no one has seen it except Joyce at this stage. Happy to discuss it.

Nick

Message

From: Jtolliver [redacted]
Sent: 1/21/2015 8:02:30 AM
To: Scott Rice [redacted]
CC: Phyllis Wise [redacted]
Subject: Re: meeting

Thanks to both of you!

all best
Joyce

Joyce Tolliver

On Jan 21, 2015, at 06:56, Scott Rice <[\[redacted\]](#)> wrote:
[redacted] Thanks.
Scott

On Jan 21, 2015, at 6:38 AM, Phyllis Wise <[\[redacted\]](#)> wrote:
Joyce,

Were you able to [redacted] If not (or even if you did), I'd be happy to talk with you about brainstorming what we should do.

Thanks so much for all the time you are spending on this. We will get through this and be able to concentrate on the real challenges and opportunities that we must focus on.

Best,
Phyllis

From: Joyce Tolliver [redacted]
To: Phyllis Wise [redacted]
Cc: Rice Scott [redacted]
Sent: Monday, January 19, 2015 10:51 PM
Subject: Re: meeting

Phyllis, it is the sort of thing I can't help thinking about, but I am wondering about procedure now because the entire Gang of Five (to use Jim Dey's flattering term) were included in the distribution list of the Levy email. [redacted]

J.

On Mon, Jan 19, 2015 at 10:13 PM, Phyllis Wise <[\[redacted\]](#)> wrote:
Joyce,

How kind of you to be giving this so much thought. [redacted]

Phyllis

From: Joyce Tolliver <[REDACTED]>
To: Phyllis Wise <[REDACTED]>
Sent: Monday, January 19, 2015 7:15 PM
Subject: meeting

Hello, Phyllis, and happy 2015!

Just wondering if you'd thought of setting up a meeting to discuss a response, or set of responses, to the AAUP. I believe they set Feb. 2 as the desired response date. Nick and I are happy to meet, and I'm sure other colleagues are too.

cheers
Joyce

[REDACTED]
Joyce Tolliver

--
Joyce Tolliver

To: Jose Ignacio Hualde
From: Joyce Tolliver
Subject: prof pajarita
Sent: Fri Jan 30 10:18:59 2015
Importance: Normal

accidentally sent this exchange to us(from bottom up):

From: Sanders, Kirk
Sent: Friday, January 30, 2015 8:44 AM
To: Ben McCall
Subject: RE: What do we do?

Nick is no wallflower. Frankly, he's a publicity hound who has never declined an offer to appear in the newspaper supporting the administration's position on any issue. Nor has he ever shied away from the public eye on campus in any matter. He is the chief anti-union voice, etc., etc. I find it hard to believe that he is "spooked" by a lawsuit in which he has no personal stake. It's not as if Salaita is suing him. (Of course, as I said, I'm very interested in what the discovery phase of this lawsuit will uncover.)

As you well know, I have given a lot of ground over and over again on the Salaita affair in an effort to find common ground. I am at the very end of my rope here. At some point, enough is enough. But I will keep trying here through the day.

I will try to craft some positive suggestions for the opening paragraph rather than just criticisms of it. But I simply can't abide the new opening, which foregrounds the unclarity of the Statutes over the actual problems we're trying to address.

K.

Kirk R. Sanders

Associate Professor and Chair, Department of Philosophy

Associate Professor, Department of the Classics

University of Illinois at Urbana-Champaign

From: Ben McCall [bjmccall@illinois.edu<mailto:bjmccall@illinois.edu>]
Sent: Friday, January 30, 2015 8:36 AM
To: Sanders, Kirk
Subject: What do we do?

Kirk,

I wish I knew where Joyce stood, but in the absence of any other information I'm assuming that she will follow Nick's lead.

If that's the case, we are painfully close to agreement. I think if you and Nick can each give a little bit, we can still find a text to submit collectively.

You continue to approach this issue with the assumption that Nick is acting in bad faith. Perhaps you are right. But

perhaps you are wrong, and the lawsuit really has spooked him seriously. It takes a lot of strength to stand up and speak the truth to power when there are big consequences on the line, and not everyone has that strength. [Indeed, I would go so far as to say that most people do not...and for that reason I do share Nick's worry that we will attract fewer supporters (at least in public) than we would have had the lawsuit not been filed.]

If we assume Nick is coming from a position of weakness, it may be possible to keep him on board with some minor textual changes that still retain the essence of what we are looking to achieve, and still achieve the objective of bringing people together. [If Nick is negotiating in bad faith, nothing we can do will sway him.]

If Nick stubbornly refuses to yield at all to accommodate your concerns, I'm not sure what the best way to proceed is. The easiest path is to simply let the old RS15.04 stand, and perhaps offer amendments on the floor as needed. Your alternative of submitting Wednesday's text with just our two names is an interesting one, but I wonder how we handle the obvious attribution problem that we would be claiming authorship of a document that we did not entirely write ourselves? Could we somehow add a note in the author list to the effect that Nick and Joyce contributed to writing the document and agreed to it on Wednesday, but later withdrew their support?

Cheers,

Ben

On 01/30/2015 07:54 AM, Sanders, Kirk wrote:

This is going to go down in flames, I fear. As I pointed out in my email to everyone, several of the changes in the body of the text have no plausible relation whatsoever to concerns about a lawsuit. They are just last-minute attempts to soften the language beyond what we had all agreed upon. (I doubt that Nick is troubled that his response to CAFT with Sir Roy and Joyce will be cited in the lawsuit. He just doesn't want anything critical of the administration to be quoted anywhere.)

So, the question is: what do we do? Return to RS15.04? Introduce the new statement w/o their signatures? (I confess a burning desire to use their own words against them and to press the point on the floor of the Senate that they had agreed to all of these statements as late as Wednesday, after many hours of back and forth. But then, clearly, I'm just not as nice a person as you are. So I'll defer to your better judgment here.)

K.

Kirk R. Sanders

Associate Professor and Chair, Department of Philosophy

Associate Professor, Department of the Classics

Sent from my iPhone

From: on behalf of [REDACTED]
Sent: Saturday, January 31, 2015 7:35 PM
To: Nick Burbules
Subject: Re: Just FYI

Thanks for sharing.

Have you seen the David O'Brien letter to AAUP?

----- Original Message -----

From: "Nick Burbules" [REDACTED]
To: "Robin Kaler" [REDACTED]
Sent: Saturday, January 31, 2015 1:56:58 PM GMT -06:00 US/Canada Central
Subject: Just FYI

From: Abigale Svoboda <asvobod2@illinimedia.com>
Date: Saturday, January 31, 2015 at 10:10 AM
To: Burbules <burbules@illinois.edu>

Our questions are below. If there's anything you'd like to add, please feel free! Thank you!

1. Do you think Salaita's lawsuit against the University is valid?

I personally believe that he has a legitimate claim to receive compensation for damages caused by having the job offer withdrawn. But as a non-lawyer, the lawsuit seems to me a mish-mash of charges, all thrown at the wall to see what will stick. Some of the charges, for example that the administration intentionally caused him emotional distress, are bizarre. And how would you prove that anyway?

2. Were you surprised that he is suing the University?

No, I'm surprised by the fact that he says he still wants to be a faculty member here, even though his lawsuit is a scorched-earth attack intended to do the maximum damage possible to the university. I find it impossible to put those two ideas together.

3. How would the University community be affected if the Board of Trustees were to reverse its decision and allow Salaita to be hired at the University?

I don't see any hint of a suggestion in its recent statement that the Board will consider reversing its decision. It was clear and unambiguous. I think people who imagine that the Board is going to change its mind on Salaita are kidding themselves.

4. The Champaign AAUP chapter presented two new resolutions on Friday, one advising the Board to follow all feasible CAFT recommendations. Do you think this is a sound recommendation? Why or why not?

Actually, they only recommend following two of the three CAFT recommendations. They call the idea of convening an LAS committee to re-review the case “no longer feasible.” Their statements are advice to the Senate, and I wouldn’t presume to predict what the Senate will do.

Happy to talk more if you have follow-ups!

From: on behalf of [REDACTED]
Sent: Sunday, February 01, 2015 11:33 AM
To: Jeff Unger
Subject: Re: dey today

It is funny, isn't it?

I guess that's what you get for pro bono.

----- Original Message

From: "Jeff Unger" <[REDACTED]>
To: "Robin Kaler" <[REDACTED]>
Sent: Sunday, February 1, 2015 10:39:13 AM GMT -06:00 US/Canada Central
Subject: dey today

The one interesting quote in today's Dey column about the Salaita lawsuit is his quoting verbatim from the suit where it refers to Salaita having died. Obviously his lawyer (an article I read yesterday referred to him as the "best lawyer in Chicago") does at least ascribe to the Fred Volkmann School of Cut and Paste.

From: Wise, Phyllis M <pmwise@illinois.edu>
Sent: Monday, February 02, 2015 7:00 AM
To: Phyllis Wise [REDACTED]
Subject: FW: can we meet?

Phyllis M. Wise
Chancellor, University of Illinois at Urbana-Champaign Swanlund Administration Building
601 East John Street
Champaign, IL 61820
Phone: (217) 333-6290
Fax: (217) 244-4121

-----Original Message-----

From: Wise, Phyllis M
Sent: Monday, February 02, 2015 4:49 AM
To: Rosenstock, Bruce
Subject: RE: can we meet?

Dear Bruce,

I appreciate and respect your concern on behalf of your colleagues, as well as the perspectives of those who hold differing views. As such, I want to reiterate that I would be happy to receive and read your petition. As I have stated many times, I look forward to working together as a community of scholars and colleagues to move forward to address the challenges and opportunities that face us in the coming year.

Sincerely,
Phyllis

Phyllis M. Wise
Chancellor, University of Illinois at Urbana-Champaign Swanlund Administration Building
601 East John Street
Champaign, IL 61820
Phone: (217) 333-6290
Fax: (217) 244-4121

-----Original Message-----

From: Rosenstock, Bruce
Sent: Friday, January 30, 2015 9:05 AM
To: Wise, Phyllis M
Subject: RE: can we meet?

Dear Phyllis,

I am sorry to hear that you don't think it's worthwhile to meet. I would have wanted to discuss with you several questions that the currently 65 tenure-track faculty from various campus units and colleges have deputized me, as

president of CFA, to ask you. Before I make any public statements regarding our petition, I would like to offer you a chance to reply to these questions. The faculty whom I represent would very much like to hear your answers to these questions:

1. Concerning your deliberations about the CAFT report: Before you decided how to respond to the CAFT report recommendation to "remand Salaita's candidacy to a committee of faculty experts," did you consult with any of the individuals who were signatories to the letters of no confidence that were presented to you by a number of LAS units? Did you consult with anyone who could be expected to support the CAFT recommendations? Did you consult with any of the four faculty members who wrote the report?
2. Your deference to the Board of Trustees: Is your decision to reject the CAFT recommendation concerning a remanding of the candidacy of Salaita based solely upon your belief that the Board of Trustees will not reconsider Salaita's candidacy? If it is not, what would your decision be if you had no knowledge of what the Board would do? Would you still reject this recommendation and why?
3. Your apparent repetition of the same flawed decision-making process: You have said that your decision-making process in the case of Salaita was flawed because you failed to consult with faculty before taking the step you did on August 1. The reason you offered for making the decision you did on August 1 related solely to the future action of the Board of Trustees in his case. In the ensuing months you came under considerable criticism for the decision you took on August 1 and you have claimed that you would act differently (even if the decision might be the same) in the future. Looking at your decision to reject the CAFT recommendation concerning the remand of Salaita's candidacy to an LAS committee, someone might say that you repeated the same decision-making process that led to your August 1 decision. You did not consult with individuals who would have offered you a wide spectrum of opinions, and you acted (it seems) largely in expectation of what the Board of Trustees would do. How would you respond to someone who said that you seem to have simply repeated the same flawed decision-making process that led to our current situation?
4. If you were informed by the national AAUP that enacting all the recommendations of the CAFT report at this date would be sufficient to remove the threat of sanction from all members of the university except for the Trustees (and also from them, if Salaita's candidacy comes before them again and they approved his hire), what would you do? Would you choose to accept censure? Why?

These questions are of deep concern to a very large group of faculty on this campus. I hope you find that while a personal meeting with me is not worthwhile, a response to the concerns of your faculty is worthwhile.

Respectfully,

Bruce

Bruce Rosenstock
Associate Professor of Religion
Director of Undergraduate Studies, Religion Associate Director, Program in Jewish Culture and Society University of Illinois at Urbana-Champaign

"Illinois: Where seldom is heard a discouraging word, and the skies are not cloudy all day."

From: Wise, Phyllis M
Sent: Thursday, January 29, 2015 8:57 PM
To: Rosenstock, Bruce
Subject: RE: can we meet?

Dear Bruce,

Thank you for your email. I don't think it is worthwhile for us to meet. The Board of Trustees has spoken clearly that they will not re-consider their decision. They have the final authority in this matter. Therefore, I do not believe that it is worth your time or mine to revisit the possibility to remand the consideration of hiring Dr. Salaita to a committee in LAS. If you would like to send the petition to me, I am glad to read it.

Sincerely,
Phyllis

Phyllis M. Wise
Chancellor, University of Illinois at Urbana-Champaign Swanlund Administration Building
601 East John Street
Champaign, IL 61820
Phone: (217) 333-6290
Fax: (217) 244-4121

-----Original Message-----

From: Rosenstock, Bruce
Sent: Thursday, January 29, 2015 8:00 PM
To: Wise, Phyllis M
Subject: can we meet?

Dear Chancellor Wise,

You were kind enough to ask to meet me when I sent you an email earlier. I enjoyed our conversation. Now, as president of the Campus Faculty Association, I would like to ask you if I can meet with you in the near future so that I can present you with a petition from a number of faculty members who would like you to reconsider your decision to not allow the formation of a faculty committee of experts to assess Steven Salaita's professional fitness. This recommendation, as you know, came from a committee of the Academic Senate one of whose members (Matt Finkin) is the nation's foremost legal expert in the field of academic freedom. I believe that the CAFT report offers a way forward, even now, after the Board has said it would not reconsider the Salaita case and after Steven Salaita has filed a lawsuit against the University. I would like to present you with the petition in person and to discuss with you what many of us feel remains our best option for resolving our current situation.

And, by the way, I would like to caution you that the university news release today regarding the Salaita lawsuit makes a patently false statement regarding the CAFT report. It states that "The Board's decision concerning Dr. Salaita was not reached hastily. Nor was it the result of external pressures. Indeed, the Committee on Academic Freedom and Tenure concurred that "donor influence" was not a basis for the decision." As you are perfectly aware, the CAFT report limited itself to saying only that they found no evidence that you, Chancellor Wise, made your decision on the basis of donor influence (something you said to me in person, and which I accept). However, the CAFT report never asserted that "the Board's decision" was not influenced by one or more donors. I would hope that our university represent itself with complete truth and honesty in its upcoming lawsuit. I therefore think that we ought to retract this part of the news release, or at least correct it to say clearly that the CAFT report found no evidence that your decision was influenced by donors.

Respectfully,

Bruce

Bruce Rosenstock

Associate Professor of Religion

Director of Undergraduate Studies, Religion Associate Director, Program in Jewish Culture and Society University of Illinois at Urbana-Champaign

"Illinois: Where seldom is heard a discouraging word, and the skies are not cloudy all day."

From: Nick Burbules
Sent: Wednesday, February 18, 2015 9:03 AM
To: Phyllis Wise; Robin Kaler
Subject: Good morning
Attachments: rs1506.pdf

Hi Phyllis,

Just a thought that I've been musing over, The senate affirmed the CAFT recommendations, and on Monday endorsed the three recommendations from our resolution (attached).

One way to deal with this might be to announce that you have reviewed the six recommendations from the senate and can support five of them (not the LAS review). Saying you support 5 of 6 recommendations seems to be a better way to frame it than to say you're rejecting one.

(Although admittedly it's the one that some folks want the most.)

Nick

UNIVERSITY OF ILLINOIS
URBANA-CHAMPAIGN SENATE
Prefiled Resolution

RS.15.06 **Recommendations about Shared Governance and Academic Freedom**

The recent controversy over the decision to reject the recommendation to appoint Steven Salaita to a tenured position in American Indian Studies has revealed that campus policies could provide clearer guidance on how such unusual cases should be handled, particularly around divisions of authority and responsibility within campus administration. In the absence of clear policies, decisions were made in a way that was inconsistent with our usual practices of shared governance. The Senate of the University of Illinois at Urbana-Champaign expresses its serious concerns about these errors. It is imperative that we learn from these mistakes and put clearer policies in place to ensure that they will not happen again. The Senate is equally concerned about the potential for threats to academic freedom created by public statements made by the administration during this time.

Much of the recent controversy revolves around conflicting notions of the appropriate role of civility in decisions regarding hiring and dismissal of academic employees. The Senate believes that civility and respect are laudable and generally acceptable norms for public discourse; and we recognize that university employees “should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution” (*AAUP 1940 Statement of Principles on Academic Freedom and Tenure*; <http://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>). When members of the university community fail to fulfill these obligations, it is entirely appropriate for administrators to attempt to distance the institution from any offending statements and to reemphasize the values of tolerance, inclusion, and respect. This principle is reflected in the University of Illinois *Statutes* (Article X, Section 2c).

However, university employees must remain free from the threat of either institutional censorship or discipline for the exercise of free speech that raises no questions about lack of professional fitness. When there is an allegation of professional unfitness on the part of a University of Illinois faculty member, due process must be followed, as outlined in Articles IX and X of the University of Illinois *Statutes*. In the absence of such allegations, lack of civility should not be considered legitimate grounds for dismissal of a faculty member.

In order to assure that our governing documents are clear, consistent, and expressive of our University’s commitment to shared governance, due process, and academic freedom, the Senate recommends the following:

ISSUE #1: Provost Communications #2, #3, and #9 give apparently conflicting advice about the roles of the Chancellor and President, once a hiring and/or promotion case has been reviewed by the Provost. Some have read #2 and #3 as excluding the Chancellor and President from the process because they have “delegated responsibility” to others. Communication #9 states that “The Provost makes the final decision,” but also says that the Provost writes a “Final letter to deans and directors notifying them of those faculty members to be recommended to the Chancellor and President for promotion,” which appears to preserve an evaluative role for the Chancellor and the President in the process.

RECOMMENDATION 1: The Provost's office should revise Communications #2, #3, and #9 where necessary to resolve this apparent conflict, and to ensure that all Communications conform clearly with relevant sections of the University Statutes, including Article III, Section 3d and Article IX Section 4a. These proposed procedures should be subject to review by relevant campus governance bodies.

ISSUE #2: If these issues between different readings of the Provost's Communications and the Statutes are resolved in such a way as to preserve an independent stage of review at the Chancellor's level, it would still remain to be clarified what procedures ought to be followed in such a review. Nowhere in the Statutes or other governing documents are there guidelines about what processes of consultation, including consultation with faculty, the Chancellor should follow.

RECOMMENDATION 2: If it is judged that an independent stage of review at the Chancellor's level should be preserved, the provost's office should develop explicit procedures for consultation with unit administrators, and with relevant faculty committees, to be followed during such reviews by the Chancellor. These proposed procedures should be subject to review by relevant campus governance bodies.

At all levels (department, college, and campus) review processes should follow the principles of shared governance and consultation elaborated in Provost Communication #27, as well as the AAUP's guideline that responsible administrators "should, on questions of faculty status, as in other matters where the faculty has primary responsibility, concur with the faculty judgment except in rare instances and for compelling reasons which should be stated in detail" ("AAUP Statement on Government of Colleges and Universities," <http://www.aaup.org/report/statement-government-colleges-and-universities>).

ISSUE #3: Principles of due process, as well as considerations of prudence and good practice, dictate that we should re-examine our academic hiring policies to ensure that they reflect our basic commitments as an institution: commitments to openness, fairness, academic freedom, shared governance, and excellence in hiring.

Specific questions have been raised about university policies on academic freedom and extramural speech.

RECOMMENDATION 3: The Statutes and General Rules should be reviewed by a university-wide committee to ensure that our policies on academic freedom and extramural speech, and the language in which they are expressed, are clear, consistent, and informed by relevant AAUP policy statements on the subject.

Respectfully submitted,

Ben McCall
Joyce Tolliver
Nick Burbules
Randy McCarthy

From: Phyllis Wise [REDACTED]
Sent: Wednesday, February 18, 2015 10:58 AM
To: Nick Burbules
Cc: Robin Kaler; Adesida Ilesanmi; Rice Scott
Subject: Re: Good morning

Nick,

Scott and Robin are working with me (and Ade) to try [REDACTED]
[REDACTED] It should help you and also the discussion that I will be having with the AAUP, who will be visiting at the end of the month.

Phyllis

Sent from my iPad

On Feb 18, 2015, at 9:41 AM, Nick Burbules [REDACTED] wrote:

Thanks Phyllis

Just let me know how I can help.

ALSO:

I talked with Cary Nelson, who is on AAUP's Committee A. He spoke to this in the senate also.

His view is that there are five things we can do that will avoid an AAUP censure vote in June/July.

1. Settle financially with Salaita.
2. Address flaws/gaps in our hiring policies.
3. Change the time line for Board review.
4. "Withdraw" (redefine, clarify, correct) public statements on "civility"
5. Reaffirm our commitments to AAUP principles of academic freedom.

3 has already been announced by the Board.

2 and 5 were part of the resolution we passed Monday.

4 is one of the CAFT recommendations that, I believe, has already been accepted by the Chancellor (though we have not heard from the Pres/Board about their statement yet).

1 is essential but out of our control.

To me the discussion now needs to be about how to move these forward. I have a meeting next week with some pro-Salaita folks and would love to see a conversation about THIS that could bring us together. The LAS proposal is not only a non-starter; by encouraging him to continue to think there is a back-door way he could still end up being hired it DISCOURAGES him from accepting a deal.

On Wed, Feb 18, 2015 at 9:33 AM, Phyllis Wise [REDACTED] wrote:
Nick,

I have been trying to arrange a phone call with Ade to go over the proceedings at the dade mic senate and we have not been able to make contact. Without talking with him, I can say that your recommendation is sound. But let me talk with him first.

Phyllis

Sent from my iPad

On Feb 18, 2015, at 9:02 AM, Nick Burbules [REDACTED] wrote:

Hi Phyllis,

Just a thought that I've been musing over, The senate affirmed the CAFT recommendations, and on Monday endorsed the three recommendations from our resolution (attached).

One way to deal with this might be to announce that you have reviewed the six recommendations from the senate and can support five of them (not the LAS review). Saying you support 5 of 6 recommendations seems to be a better way to frame it than to say you're rejecting one.

(Although admittedly it's the one that some folks want the most.)

Nick

<rs1506.pdf>

To: Graber, Kim C
From: Joyce Tolliver
Subject: Re: Professor Steven Salaita
Sent: Fri Feb 20 22:43:03 2015
Importance: Normal

oh my; thank you, Kim!

: -)

On Fri, Feb 20, 2015 at 10:37 PM, Graber, Kim C <kgraber@illinois.edu<mailto:kgraber@illinois.edu>> wrote:
Roy:

Your previous message didn't go to Joyce, instead it went to Judy Tolliver. The message was bounced back to me after doing a "reply all" indicating that Judy had retired from the university. I'm copying Joyce on this message so that she can join us next Friday.

Kim

Kim C. Graber, Ed.D.
Director, Campus Honors Program
University of Illinois
1205 W. Oregon
Urbana, IL 61801
(217) 333-2697<tel:%28217%29%20333-2697> (office)

Professor, Department of Kinesiology and Community Health
University of Illinois
Freer Hall, 906 S. Goodwin Avenue
Urbana, IL 61801
(217) 333-2697<tel:%28217%29%20333-2697> (office)
(217) 244-7322<tel:%28217%29%20244-7322> (fax)

From: Graber, Kim C
Sent: Friday, February 20, 2015 10:35 PM
To: Campbell, R H; Burbules, Nicholas C; Tolliver, Judith A; Wheeler, Matthew B
Subject: RE: Professor Steven Salaita

Thanks, Roy. I plan to join you for the meeting—and a happy hour afterward!

Kim

Kim C. Graber, Ed.D.
Director, Campus Honors Program
University of Illinois
1205 W. Oregon
Urbana, IL 61801
(217) 333-2697<tel:%28217%29%20333-2697> (office)

Professor, Department of Kinesiology and Community Health
University of Illinois
Freer Hall, 906 S. Goodwin Avenue
Urbana, IL 61801
(217) 333-2697<tel:%28217%29%20333-2697> (office)

(217) 244-7322<tel:%28217%29%20244-7322> (fax)

From: Campbell, R H
Sent: Friday, February 20, 2015 10:05 AM
To: Burbules, Nicholas C; Graber, Kim C; Tolliver, Judith A; Wheeler, Matthew B
Subject: FW: Professor Steven Salaita
Importance: High

Dear Colleagues

Anita Levy and several Committee A members will be here on Friday 27th, see below. They would like to meet with me in the time slot 2:00pm-2:30pm and have invited me to bring as many of the authors of the "Response to the Committee on Academic Freedom and Tenure (CAFT) Report" as a group if you are available.

Roy

Roy Campbell
Sohaib and Sara Abbasi Professor of Computer Science
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201 N Goodwin Av, Urbana, IL 61801-2302
Tel 217-333-0215<tel:217-333-0215> Email rhc@illinois.edu<<mailto:rhc@illinois.edu>>

Appointments etc:

Hobby, Kimberly S <khobb2@illinois.edu<<mailto:khobb2@illinois.edu>>>
Phone (217) 300-2508<tel:%28217%29%20300-2508>

From: Anita Levy <alevy@aaup.org<<mailto:alevy@aaup.org>>>
Date: Wednesday, February 18, 2015 at 1:32 PM
To: "Warrior, Robert" <rwarrior@illinois.edu<<mailto:rwarrior@illinois.edu>>>, "Byrd, Jodi" <jabyrd@illinois.edu<<mailto:jabyrd@illinois.edu>>>, "O'Brien, David I" <obrienI@illinois.edu<<mailto:obrienI@illinois.edu>>>, [REDACTED] <rc@illinois.edu<<mailto:rc@illinois.edu>>>, Harry Hilton <h-hilton@illinois.edu<<mailto:h-hilton@illinois.edu>>>
Cc: "mharkins@harpercollege.edu" <mharkins@harpercollege.edu<<mailto:mharkins@harpercollege.edu>>>, Joan Wallach Scott <jws@ias.edu<<mailto:jws@ias.edu>>>, Hank Reichman <henry.reichman@csueastbay.edu<<mailto:henry.reichman@csueastbay.edu>>>, Joerg Tiede <htiede@iwu.edu<<mailto:htiede@iwu.edu>>>, Greg Scholtz <gscholtz@aaup.org<<mailto:gscholtz@aaup.org>>>, Jordan Kurland <jkurland@aaup.org<<mailto:jkurland@aaup.org>>>, Steven Salaita <ssalaita@uiowa.edu<<mailto:ssalaita@uiowa.edu>>>, Anand Swaminathan <anand@loevy.com<<mailto:anand@loevy.com>>>, "Finkin, Matthew W" <mfinkin@illinois.edu<<mailto:mfinkin@illinois.edu>>>
Subject: Professor Steven Salaita

Dear Colleagues,

The AAUP's Committee A on Academic Freedom and Tenure has selected a subcommittee to visit the University of Illinois at Urbana-Champaign on Friday, February 27 to consult with chief administrative officers, and members of the faculty regarding the case of Professor Steven Salaita. The subcommittee will prepare a final report for the consideration of Committee A for potential publication.

The following Committee A members (plus Anita Levy as staff) will serve as the subcommittee for the visit to Urbana:

Professor Henry Reichman

Chair, Committee A
Department of History
California State University, East Bay

Professor Joan Wallach Scott
School of Social Science
Institute for Advanced Study

Professor Joerg Tiede
Department of Computer Science
Illinois Wesleyan University

Please give me a call at your earliest convenience to schedule a meeting with the subcommittee. My direct line is 202-594-3653<tel:202-594-3653>.

Sincerely,

Anita Levy

Anita Levy, Ph.D.
Senior Program Officer
American Association of University Professors
1133 19th Street NW, 2nd Floor
Washington, D.C. 20036

Phone: 202-737-5900<tel:202-737-5900> or 800-424-2973<tel:800-424-2973>

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E-mail: alevy@aaup.org<mailto:alevy@aaup.org>

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Joyce Tolliver

To: Nick Burbules
From: Joyce Tolliver
Subject: Re: research nudges
Sent: Mon Mar 02 13:04:55 2015
Importance: Normal

Not so shabby. Guess you are getting some research done after all.

On Mon, Mar 2, 2015 at 12:16 PM, Nick Burbules [REDACTED] >> wrote:
Well, thank you. I haven't heard from anyone yet that my Gutsell professorship is just a sop for services rendered to the EAs.

But I am pretty proud of my cv.

Just got four more invitations for invited chapters or talks, three of them international.

On Mon, Mar 2, 2015 at 12:02 PM, Joyce Tolliver [REDACTED] m>> wrote:
It's ALL "real work." And you DO get it all done.

On Mon, Mar 2, 2015 at 10:58 AM, Nick Burbules [REDACTED] >> wrote:
Sigh, I bumped into someone at the grocery yesterday who said (a) thank you so much for your efforts in the senate and (b) how do you ever get real work done?

As I struggle today to get a draft out for a long-overdue journal invitation from Spain, I do wonder.

On Mon, Mar 2, 2015 at 10:52 AM, Joyce Tolliver [REDACTED] m>> wrote:
One more thing for the list.

On Mon, Mar 2, 2015 at 10:42 AM, Nick Burbules [REDACTED] >> wrote:

On Mon, Mar 2, 2015 at 10:38 AM, Joyce Tolliver [REDACTED] m>> wrote:
All true, all sensible.
Might not be a bad idea to quietly prepare a substitute motion for next Monday.

No, it might not.

On Mon, Mar 2, 2015 at 10:16 AM, Nick Burbules [REDACTED] >> wrote:

On Mon, Mar 2, 2015 at 10:05 AM, Joyce Tolliver [REDACTED] m>> wrote:
I guess the argument, which AA did not make, is that if a candidate is holding two different offers and they have to wait until May to see if the BOT will approve our offer, it will then be too late to accept another institution's offer if the BOT decides to turn them down.

This is one reason it would be helpful to have the Board affirm its policy of "active restraint."
And even better if they could go one step further and make it clear that only new information coming to light after campus approval would be valid grounds for a negative Board vote.

I certainly wish this were the resolution - but it would take someone with real sensitivity to the procedures and a fair habit of mind to come up with it.*

As opposed to a politicized group of 50 or so faculty who want to use the senate for totally symbolic votes solely for the purpose of being able to whine about the autocratic admin when it rejects/ignores them.

(So much harder to do the detail work of figuring out how things really work.)

Though I have to say that even your formulation may go too far for the Board. No one wants to say it, but it is precisely the behavior of the campus on Kilgore and Salaita that has the Board worried that, left unchecked, some campus units can't be trusted not to hire extremists. They are even less willing to give up their final authority now than they might have been a few years ago.

(And they suspect, with some due cause, that it is just such latitude that some units are angling for.)

*Perhaps it could be a SUBSTITUTE MOTION for the Senate meeting. . .

. . .

. . .

On Mon, Mar 2, 2015 at 8:15 AM, Nick Burbules <[REDACTED]> wrote:

On Mon, Mar 2, 2015 at 7:54 AM, Jtolliver <[REDACTED]> wrote:
We will give input on revamped schedules and nothing is set in stone yet. It is not a reason to insist the Board relinquish the control they are required to maintain.

Yes, but the schedule/timing issue is a red herring.

IF the Board is going to approve cases it is clearly better that they do it early than late. But these folks don't want that - they want the Board out of the process entirely.

So the "concern" that an early review isn't early enough is phony. Whatever the schedule, letters will say "Contingent . . ." If that is going to scare people away then the timing DOESN'T MATTER.

But the point is, it won't scare people away.

Joyce Tolliver

On Mar 2, 2015, at 06:47, Nick Burbules <[REDACTED]> wrote:

I am fretting a bit about the SEC mtg.

AA's incoherence makes me wonder if people have even looked at the GUP report.

I worry that they will ask Bill again if USSP needs to look at this, and he will say "no."

I worry that CL will say these are arguments to raise on the floor, not reasons to refer to committee.

The Senate, thanks to our friends, seems to be falling in love with symbolic and procedurally dubious "resolutions" (aka, crying tantrums).

On Mon, Mar 2, 2015 at 6:44 AM, Nick Burbules <[REDACTED]> wrote:
Of course, for you there is always time.

On Sun, Mar 1, 2015 at 11:09 PM, Jtolliver <[REDACTED]> wrote:
Do you have a little time for us to meet late this week? I'd like to show you what I have been working on.

Joyce Tolliver

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Joyce Tolliver

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Joyce Tolliver

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Joyce Tolliver

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Joyce Tolliver

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Joyce Tolliver

From: Campbell, R H <rhc@illinois.edu>
Sent: Friday, April 03, 2015 3:15 PM
To: Phyllis Wise; Joyce Tolliver
Cc: Kaler, Robin Neal; Alston, Reginald J; Roy Campbell
Subject: Re: campus climate survey comments

Dear Phyllis:

I am very sorry that we have this survey being sent out. I did advise Harry to have the survey reviewed by a professional:

The reason why I ask that the University, Senate, and Senate Executive Committee is distanced from the survey is that it is badly written from the point of view of a survey instrument, asks questions that can be answered objectively and are therefore at best redundant, has tendentious wording, and does not discriminate between action and reaction (for example, there is no way to understand what is the contribution to the survey numbers from intimidated Senators by clapping and cheering activists or their threatening remarks on the Senate floor as opposed to those who might feel intimidated by a request to keep discussion civil.) Many people may feel many different kinds of discomfort with the campus climate, for very different reasons. If we had more time, I would recommend you have it reviewed by a survey professional to remove as many of these problems as possible.

Unfortunately, I believe that we will get complaints about the survey and that these may require the Senate to impose a professional survey review on any proposed survey from a Senate Committee, perhaps even on all survey's going through DMI. I will instruct my office to keep track of complaints.

Roy

Roy Campbell
Sohaib and Sara Abbasi Professor of Computer Science
Siebel Center
201 N Goodwin Av, Urbana, IL 61801-2302
Tel 217-333-0215 Email rhc@illinois.edu

Appointments etc:
Hobby, Kimberly S <khobb2@illinois.edu>
Phone (217) 300-2508

From: Phyllis Wise
Date: Friday, April 3, 2015 at 10:12 AM
To: Joyce Tolliver
Cc: Robin Kaler, "Alston, Reginald J", Roy Campbell
Subject: Re: campus climate survey comments

All,

I think the survey is deeply flawed. There are people who are specialists in writing surveys. I wish we could insist that the survey be reviewed by a person who knows how to do this. I am sure we have people on our campus who do this. I don't think any disclaimer can replace doing the survey right.

Phyllis

Sent from my iPhone

On Apr 2, 2015, at 8:57 PM, Joyce Tolliver [REDACTED] wrote:

Robin, this comment is very helpful.

Of course it is Roy's call how to respond to your suggestion, but I think it would be very helpful if the committee were willing to work with professionals from the Survey Research Lab. My sense is that it would be a good idea to at least encourage the committee members to do so.

On Thu, Apr 2, 2015 at 8:23 PM, Kaler, Robin Neal <rkaler@illinois.edu> wrote:

Hi Joyce:

Yes, Reggie and I share your concerns about the leading questions and lack of rigor in the survey tool. However, since the survey is from a subcommittee of a Senate committee, it seems appropriate for the survey to be refined by the Senate. Perhaps you could recommend they work with professionals at the Survey Research Lab?

In my opinion, their massmail should include a disclaimer that the survey was not created by the administration.

Thanks so much for your efforts to create a more accurate and informative tool.

I'd be happy to talk if you think we might find other constructive options.

Warmly,

r

From: Joyce Tolliver [mailto:[REDACTED]]
Sent: Thursday, April 02, 2015 7:58 PM
To: Phyllis Wise; Kaler, Robin Neal; Alston, Reginald J; Roy Campbell
Subject: Fwd: campus climate survey comments

Dear Phyllis, Reggie, and Robin,

I don't know if you have seen the survey that the Senate Equal Opportunity plans to circulate, but it is pretty obviously designed to elicit complaints, rather than making any pretense at actually gauging campus climate.

I understand Roy has asked the committee chair to clarify that it does not speak for the full Senate.

I thought it might be helpful to you to see the comments I have sent to Roy on the flaws in the survey construction.

best wishes

Joyce

From: Joyce Tolliver <joycet@illinois.edu>

Subject: campus climate survey comments

Date: April 2, 2015 at 6:27:09 PM CDT

To: R H Campbell <rhc@illinois.edu>

Cc: elyne cole <e-cole1@illinois.edu>

Dear Roy,

As I expressed to SEC yesterday, I have some serious concerns about the design of the survey that our Eq Op Committee is going to distribute which purports to gauge the campus climate on diversity. Here are some concerns about specific questions:

Question 2 asks, "...have you noticed an increase or decrease in the number of underrepresented candidates willing to apply...?"

The wording “willing to apply” implies a focus on the experience of the potential applicants, as opposed to an objective focus on the number of applications received. For this reason, while it purports to elicit information, in fact, it is asking only about the respondent’s perceptions, which may or may not be accurate.

Also, if there is a perception of decrease in applications, how are the receiving departments to know why people did not apply—whether, for instance, because they were unaware of the availability of the position, not qualified for the position, perfectly happy in their current position, or—the only possibility this wording entertains—“unwilling” to come here if accepted?

In addition, of course, the campus has figures on number of applications received from underrepresented applicants, so the Committee can find this information without asking respondents for their subjective impressions, if it truly is interested in the information rather than the perception.

Question 3 suffers from the same flaw. The campus keeps track of retention cases. Asking for the respondents to give their subjective impressions is an unreliable way to measure this point.

Question 4 does not allow a space for the respondent to explain how they interpret “as a result of current campus climate,” much less to indicate which particular aspects of “campus climate” are being identified as triggers for a respondent’s affirmative answer. It also does not distinguish between respondents who answer affirmatively because of a fleeting moment of frustration, and respondents who made the decision to leave because of some aspect of the campus climate.

(There is no question 5.)

Question 6 features a wording that asks the respondent to share impressions about somebody else’s responses to interactions with other people. It’s hard to see how such a question could generate any reliable data.

Question 7, like questions 2 and 3, asks the respondent to give an impression about a matter which is easily verifiable through a look at data from the Graduate College. How will the committee interpret these responses, given that they may or may not reflect the actual data?

Question 8, like question 6, asks the respondent to gauge someone else's subjective experience, something which is not possible to do with any reliability. Again, any response given here would tell us nothing about campus climate, nothing about levels of "academic stress among underrepresented undergraduate students," although perhaps a bit about the mindset of the anonymous respondent. The only thing of value that can be learned from this question relates to the biases of the survey authors.

Since Question 10 does not ask the respondent to explain any affirmative answers, it is impossible to draw any meaningful conclusions about the cause for any reported decrease in respondents' "freedom to express potentially controversial or unpopular perspectives on issues of diversity." This question could as easily be answered affirmatively by those who feel intimidated by colleagues wearing "F**K Civility" buttons as by those who feel that it is not acceptable to discuss their experiences of racial microaggression.

Question 11 puts the word "civility" in scare quotes, thus implying that it is used in a way that is outside the norm. It is not clear why the authors have chosen to do this, but very often scare quotes are used to indicate irony.

At this point in the survey, it is difficult to imagine that the survey was designed to elicit anything except for complaints about the campus administration's handling of the Salaita case.

The Senate Committee on Equal Opportunity and Inclusion serves an important function on our campus. Lamentably, this survey has caused me to wonder how committed its current members are to advancing equal opportunity and inclusion for everyone on our campus.

I am copying Elyne Cole on these comments, as I have indirectly referenced the Staff and Academic Office of Human Resources in some of my comments.

best wishes

Joyce

Joyce Tolliver

Associate Professor of Spanish, Translation Studies, and Gender & Women's Studies

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Joyce Tolliver

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Joyce Tolliver

From: Kaler, Robin Neal <rkaler@illinois.edu>
Sent: Friday, April 03, 2015 8:19 PM
To: Phyllis Wise
Cc: Joyce Tolliver; Alston, Reginald J; Roy Campbell
Subject: Re: campus climate survey comments

The conundrum is that if we get involved and they make even tiny changes then say the survey reflects our input, it becomes much more awkward to refute the results.

I don't have a good answer, but this does not seem likely to end well, so distance seems the safest place.

Sent from my iPad

On Apr 3, 2015, at 10:15 AM, Phyllis Wise [REDACTED] wrote:

All,

I think the survey is deeply flawed. There are people who are specialists in writing surveys. I wish we could insist that the survey be reviewed by a person who knows how to do this. I am sure we have people on our campus who do this. I don't think any disclaimer can replace doing the survey right.

Phyllis

Sent from my iPhone

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Date: April 2, 2015 at 6:27:09 PM CDT

To: R H Campbell <rhc@illinois.edu>

Cc: elyne cole <e-cole1@illinois.edu>

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Also, if there is a perception of decrease in applications, how are the receiving departments to know why people did not apply—whether, for instance, because they were unaware of the availability of the position, not qualified for the position, perfectly happy in their current position, or—the only possibility this wording entertains—"unwilling" to come here if accepted?

In addition, of course, the campus has figures on number of applications received from underrepresented applicants, so the Committee can find this information without asking respondents for their subjective impressions, if it truly is interested in the information rather than the perception.

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I am copying Elyne Cole on these comments, as I have indirectly referenced the Staff and Academic Office of Human Resources in some of my comments.

best wishes

Joyce

Joyce Tolliver

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Joyce Tolliver

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Joyce Tolliver

To: Holidays in United States
From: Joyce Tolliver
Subject: DM Salaita
Sent: Tue May 26 17:46:09 2015
Importance: Normal

Begin forwarded message:

From: Joyce Tolliver <[REDACTED]>mailto:[REDACTED]>
Subject: Re: Attached
Date: February 5, 2015 at 4:43:50 PM CST
To: "Finkin, Matthew W" <mfinkin@illinois.edu>mailto:mfinkin@illinois.edu>>

Dear Matt,
thank you for sharing this with me.

I don't think it's the case that I have "expressed some reservations about the probity of the process." Mark S. wrote to me yesterday with a similar comment, referring to an exchange David O'Brien and I had at Monday's SEC meeting (or rather to a narrative of that exchange that someone had conveyed to him).

I think it would not be a violation of trust for me to copy here my response to him nearly in its entirety.

As always, I'm available for a phone conversation or for a chat over coffee.

Joyce

Hi Mark,

...

My only concern in asking David to clarify the process was to explain an apparent contradiction in the CAFT report.

As you were not present at SEC, I am not sure what was reported to you about my interactions with David about the recusal question, and I am not sure how much context you have already for my question. Forgive me if I am a bit long-winded in my response to you.

Back in mid-September, when it had been announced that CAFT would deal with the Salaita case, I asked David in a meeting of SEC how CAFT would deal with the public statements on the part of two CAFT members alleging (or implying) that there had been a violation of Dr. Salaita's academic freedom. (You of course were one; the other one I was thinking about was a student member.) My concern was that CAFT was charged with doing an impartial and thorough investigation, and judgements on the question at hand in advance of that investigation would weaken the perceived impartiality of any conclusions the committee came to. This could, in turn, threaten the long-held stature of CAFT as a scrupulously impartial committee, so I thought it important, back in September, to get it on the record before CAFT went much further.

David acknowledged the validity of the concern and told me that no one who had already weighed in on the case would be serving on the investigating subcommittee (and that in any case student members did not serve on subcommittees). He also explained the standard CAFT process by which the entire committee discusses and approves the subcommittee's report, sometimes making revisions in the process; and he said that the two of you would have no involvement at all in those discussions. He said that the final report would contain a footnote explaining the recusal of members who had expressed judgements before the investigation began.

When I received the CAFT report in late December, I noticed that the cover page indicated that neither you nor

Chris had participated "in the investigation or approval of the report." This was consistent with what David had told SEC back in September. But on p. 4 of the report, it is stated that the committee's "findings were discussed by the entire CAFT, which has approved this report."

This was confusing, because, aside from you two, who did not participate in the "investigation or approval," there was only one CAFT member who did not serve on the subcommittee. Was it the case, I wondered, that "the entire CAFT" was to be taken to mean "the subcommittee and one other member"? If so, I had a hard time imagining the meeting at which the subcommittee's report was approved: it would have seemed to have been a matter of asking Melody Allison if she approved of the report--a strange situation, and probably not what most readers would imagine upon reading that the discussion and approval took place among "the entire CAFT."

Monday's SEC meeting was the first regular meeting held since the dissemination of the CAFT report. The CAFT report was on the SEC agenda, so I asked David to clarify this apparent contradiction. What he told me (or what I understood him to be telling me) was that my interpretation had been correct: that only one committee member had approved the subcommittee's report. He then added that he had invited you and Chris to the meeting at which the report was discussed, but that the two of you in no way participated in that discussion. To this, he added that, after the meeting, there had been some revisions suggested by email, but, again, that neither you nor Chris played any part in those suggested revisions.

David seemed a bit upset by my questions, and he asked me what the point of my questioning was, and whether I was questioning the integrity of CAFT. I told him I was following up on our September discussion, and trying to clear up what seemed to be a contradiction in the final report. He told me that CAFT would be issuing a "clarification" (his word) of other aspects of the report, and I suggested to him that that document might also clarify this matter.

I have to say that I am surprised to hear that you "offered [your] perspective and suggestions" at the final meeting, because at Monday's SEC meeting, David was rather emphatic that neither you nor Chris participated at all during that meeting.

Whatever the situation is, my sense is that, for the sake of CAFT and for the sake of the Senate, it would be good for CAFT to address the recusal issue head on and clear up the confusion.

all good wishes,
Joyce

On Feb 4, 2015, at 11:43 AM, Steinberg, Mark D <steinb@illinois.edu<mailto:steinb@illinois.edu>> wrote:

Dear Joyce,

I have heard from a couple of colleagues that at Monday's SEC meeting that you expressed strong concern that I (along with Chris Higgins) may have played an inappropriate role in formulating the CAFT report on the Salaita matter, thus compromising the investigation and report.

First, I want to clarify the fact: precisely in order to avoid any appearance of prejudgment or bias in the committee's work (since I had joined many faculty in addressing a letter to the Chancellor expressing concern about academic freedom and shared governance issues around the case) I recused myself from any role in the investigation or drafting of the report. When the entire committee met to discuss the draft, I offered my perspectives and suggestions. The revisions—which changed not of the recommendations in the draft but did change some wording and presentation of the reasoning—were entirely the work of the chair and the subcommittee. I was recused from

the approval of the final version.

My second question is more subjective, perhaps even personal as we have known each other, at least in passing, for some years (and I admire your scholarly work): what is the nature of your concern that my presence in this discussion might have been improper? I believe that you and I (and most faculty) share a strong commitment to shared governance, academic freedom, and freedom of speech—though we may differ on how we approach these principles in definition and practice (matters that are anything but simple). And I believe we share the same deep commitment to the good of this university and the harm that may result from this whole situation, though we may favor different solutions. But are my views, in your judgment, out of the mainstream? As a faculty member, senator, and CAFT member, I feel that it is appropriate that I share openly and honestly my knowledge, experience, and views on matters before the CAFT and the senate. In this case, I have no decision-making authority in the process, which I understand and accept.

But perhaps I have not understood your concerns.

Sincerely,

Mark

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On Feb 5, 2015, at 4:14 PM, Finkin, Matthew W <mfinkin@illinois.edu<<mailto:mfinkin@illinois.edu>>> wrote:

Dear Joyce,

I am sharing the latest in an ongoing exchange with AAUP as it prepares for the inevitable – a collision that seems rather difficult to avoid at this point and which cannot be other than harmful to the university. I do so because I've long respected integrity and I understand you to have expressed some reservations about the probity of the process, a process in which I have been engaged. I hope the attached will allay your concerns; but, if not, do feel free to call me.

Sincerely,
Matthew Finkin

<Response.pdf>